

Greg Edds, Chairman
Jim Greene, Vice- Chairman
Mike Caskey
Judy Klusman
Craig Pierce



Aaron Church, County Manager
Carolyn Barger, Clerk to the Board
John W. Dees, II, County Attorney

Rowan County Board of Commissioners

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MINUTES OF THE MEETING OF THE ROWAN COUNTY BOARD OF COMMISSIONERS

October 17, 2022 – 6:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING

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Present: Greg Edds, Chairman
Jim Greene, Vice-Chairman
Mike Caskey, Member
Craig Pierce, Member
Judy Klusman, Member

County Manager Aaron Church, Clerk to the Board Carolyn Barger, County Attorney Jay Dees, and Finance Director Anna Bumgarner were also present.

Chairman Edds convened the meeting at 6:00 p.m.

Chaplain Michael Taylor provided the Invocation.

Chairman Edds led the Pledge of Allegiance.

CONSIDER ADDITIONS TO THE AGENDA

There were no additions to the agenda.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Pierce moved, Commissioner Greene seconded and the vote to approve the agenda passed unanimously. (Note: At the conclusion of agenda item #2, Chairman Edds switch the order of agenda items #4 and #5).

CONSIDER APPROVAL OF THE MINUTES

Commissioner Pierce moved, Commissioner Greene seconded and the vote to approve the minutes of the October 3, 2022 Commission Meeting passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Pierce moved approval of the Consent Agenda. The motion was seconded by Commissioner Greene and passed unanimously.

The Consent Agenda consisted of the following:

- A. Badcock Home Furniture Lease Renewal
- B. Sale of Ground Lease Hangar T7
- C. Recommendation to Change Shelter Rental Times
- D. Sole-Source SHI International
- E. Sole-Source Wrike
- F. SECU ATM at WEP
- G. Tax Refunds for Approval
- H. Titan Aviation Fuel
- I. Airport Parking Lot Change Order #2
- J. RTS Subrecipient Title VI Program Plan
- K. Positions Requested as Part of Opioid Settlement Proposal
- L. Award Facilities Services Roof Replacement To Interstate Roofing, Inc.
- M. 2022 Principal Expense Report - Short Form for Q3 Lobbying
- N. Refund of Fees

2. SPECIAL RECOGNITION

In honor of Clergy Appreciation Month, Chairman Edds expressed thanks to Chaplain Hugh "Michael" Taylor and also to his son, Chaplain Michael Paul Taylor. Chairman Edds said the burdens for the County Commission seemed to get heavier and the board members were appreciative for the prayers and support from the Chaplains. Both Chaplains also ministered to law enforcement locally and across the State of North Carolina through the Shield-A-Badge With Prayer Ministry. Chairman Edds said the Commissioners could feel the evidence of the prayers and the Board wished to provide both Chaplains with a gift of appreciation. A round of applause followed the recognition.

At this point in the meeting Chairman Edds moved to approve switching the order of agenda items #4 and #5 (this was due to the crowd in attendance for item #5). The motion was seconded by Commissioner Pierce and passed unanimously.

3. PUBLIC COMMENT PERIOD

Chairman Edds opened the Public Comment Period and with no one wishing to address the Board, Chairman Edds closed the Public Comment Period.

4. QUASI-JUDICIAL HEARING FOR SUP 03-22: NETWORK BUILDING AND CONSULTING

(Note: Agenda items #4 and #5 were switched in the order of presentation/discussion but were left in numerical sequence for the purpose of the minutes).

Chairman Edds read the Chairman's Speech (Exhibit A) and declared the hearing for SUP 03-22 to be in session. Chairman Edds said the hearing would focus on an application

submitted by Network Building and Consulting to construct a satellite earth base station for high speed internet service on Tax Parcel 568-022 located at the 300 block of Upright Road.

The Clerk swore in those wishing to provide testimony in the case.

Assistant Planning Director Shane Stewart, 402 North Main Street, Salisbury, North Carolina, presented the Staff Report (Exhibit B). Mr. Stewart also provided a power point (Exhibit C) as he discussed the case.

Mr. Stewart said on behalf of their client, Amazon Kuiper Infrastructure, LLC., Network Building and Consulting was requesting a special use permit for a wireless support structure in the form of a satellite earth base station that would provide high speed internet service on a vacant 1.11 acre parcel identified as Parcel ID 568-022 located at the 300 block of Upright Road zoned Rural Agricultural (RA). Per section 21-60 (4)(a), the request was subject to the issuance of a Special Use Permit (SUP), compliance with the associated six (6) specific use criteria, and compliance with the six (6) general special use criteria.

Using the power point (Exhibit C), Mr. Stewart showed the site in question and the surrounding areas as he discussed the application. Mr. Stewart said by the Zoning Ordinance definition, all applications for “wireless support structures” to this point had been in the form of monopole, lattice, or guyed structure (a.k.a. “cell towers”) to serve voice/data services. Amazon proposed a telecommunication facility featuring six (6) satellite dishes eight (8) feet in diameter each mounted on short poles with an overall height of less than fifteen (15) feet, which would serve as an earth “base station”. Dishes will communicate with Amazon’s network of low earth orbit satellites to provide “high quality, high speed internet access” to the entire Rowan County boundary.

Planning Staff recommended the use of #57 stone over a geo-textile fabric specified by the Zoning Ordinance as a pervious surface for this development proposed within a SWII BW area, which limited impervious coverage to 12%. If approved, Staff would ensure documentation was provided to substantiate the completed stone base complied with the limitation for future reference.

Mr. Stewart referred to the Millbridge Scenic Byway, which ran along Sloan Road. Mr. Stewart said there was a little bit of a view from Sloan Road to the facility.

Mr. Stewart described the fencing proposed by the applicant. Mr. Stewart also used the power point (Exhibit C) as he discussed the required photo simulations around the area, including the proposed fencing.

Mr. Stewart highlighted the special use requirements and evaluation criteria contained in the Staff Report (Exhibit B).

While not a conventional “wireless support structure”, the same criteria applied to the request less the noted exception regarding analysis of existing towers or preferred sites within a “search ring”. Plans included the staff encouraged evergreens to screen three (3) sides of the proposed solid metal fence surrounding the facility. If approved, staff would encourage consideration of the following conditions of approval:

1. Prior to permitting, Applicant shall provide a structural analysis report by a registered North Carolina structural engineer certifying that the satellite dishes will comply with ANSI/TIA-222 G or H standards and the fall radius within the lease area.
2. If an emergency power backup generator is to be used, its noise level shall not exceed 65dBa at the nearest property edge. Testing shall be limited to the hours between 9:00 A.M. and 4:00 P.M., (Monday through Friday).
3. Clearly visible signs warning of potential RF exposure risk shall be affixed to the compound fence in accordance with FCC Rules and Regulations and OET Bulletin 65.
4. No advertising shall be posted on the compound fence.
5. Provide PE certification and as-built documentation substantiating the total built-upon area square footage does not exceed 12% of the property acreage outside the right of way.

Mr. Stewart noted that as with any telecommunication request, Planning Staff used the County’s consultant, City Scape. Mr. Stewart said it was the opinion of City Scape that the proposed facility, at least from a health and safety viewpoint, would not have a problematic effect on the residents of the County. A fiber communications facility that included at least one satellite dish was located on the adjacent parcel to the west which may have a mitigating effect on the visual impact of the proposed facility.

The Land Use Plan (LUP) did not have a specific plan recommendation for wireless support structures.

Continuing with the power point (Exhibit C), Mr. Stewart said City Scape provided recommendations for the Commissioners to consider.

Mr. Stewart discussed the procedural requirements for the Board when considering the request.

Commissioner Pierce asked Mr. Stewart if the Commission should approach the Planning Board to put some language together since the County did not currently have anything in the LUP for these types of structures. Mr. Stewart asked if there was anything specific Commissioner Pierce might want included. Commissioner Pierce responded anytime there were gaps, he felt it a good idea to address those gaps as he could foresee these

types of requests expanding in the County. Commissioner Pierce confirmed to Mr. Stewart the changes should be for land use recommendations.

Chairman Edds opened the floor for those who had been sworn in to come forward and provide testimony:

- Paul Whitley of Marshal Drive in Maryland, spoke on behalf of the applicant, Amazon Kuiper Infrastructure, LLC. Mr. Whitley said he worked for Network Building and Consulting. Mr. Whitley said he would not repeat the information presented by Mr. Stewart; however, he would answer any questions the Commissioners had about the proposed facility.
- Jonathan Wise, Sloan Road, said his residence was behind the proposed project. Mr. Wise said he and other residents had questions about what was happening in the area. Mr. Wise said the residents were fine with the pipeline already located in the vicinity but were against the proposed project. Mr. Wise said he already had high speed fiber optic cable in his yard. Mr. Wise said no one on Sloan Road had internet and most preferred to keep it that way.
- Rose LaCasse of Covenant Woods Road, Salisbury, read a prepared statement, which was provided to the Clerk to the Board for the record (Exhibit E). Ms. LaCasse's comments focused on the properties and the surrounding areas of the proposed project. Ms. Lacasse talked about the efforts of the Mount Ulla Historic Preservation Society (Society), which she was a member of, to document the rural landscapes in western Rowan County. The efforts of the Society led to Sloan Road becoming a North Carolina Scenic Byway (Byway). Ms. LaCasse mentioned three (3) properties that were part of the National Register of Historic Places: Kerr Mill, Dr. Samuel Kerr House, and the 1700's Owen-Harrison house. Ms. LaCasse also noted the location of a Century Farm designation. In closing, Ms. LaCasse felt that while the project would be welcomed in the County, a different location would be more appropriate.
- James Rollans, of NC Highway 801, Mt. Ulla, stated he was also a member of the Society. Mr. Rollans referred to prior comments about the language in the LUP addressing wireless facilities but those facilities were not like the proposed project. Mr. Rollans said Staff worked with the applicant to find a place best suited. Mr. Rollans highlighted portions of the special use requirements as compared to the County's Zoning Ordinance (Ordinance) with regards to preferred sites and co-location. Mr. Rollans said contrary to the Staff Report (Exhibit B), page 2, the Ordinance required documented evidence of the applicant's investigation of all alternative sites with owners/operators of existing structures with telecommunications facilities. Mr. Rollans said the applicant should have provided a list of those sites investigated. According to Mr. Rollans, the list was provided but did not seem to include the competent and substantial material evidence in the Staff Report (Exhibit B). Mr. Rollans said he was of the understanding the applicant should have reached out via certified mail for co-location options and provided evidence with a written response as to whether co-locations would have been an option. Mr. Rollans felt the application was incomplete and per the Ordinance he

recommended the Board return the application for completion and to encourage the applicant to find a more suitable location.

- Marian Rollans, NC Highway 801, Mt. Ulla, provided a handout (Exhibit F) with photos she stated would provide a visual tour of the rural area. Ms. Rollans discussed each photo and the reasoning as to why she felt the area was not the appropriate location for metal structures.
- James Rollans came back to the podium. Mr. Rollans again referred to the Staff Report (Exhibit B) and discussed the application's compliance with special and general use criteria. Mr. Rollans outlined the criteria he believed the applicant had failed to meet. Mr. Rollans discussed the character of the area and recalled several actions previously taken by the Board to preserve farmland. Mr. Rollans described the proposed project as commercial and metallic, not scenic, which he said would distract from the natural beauty of the area, setting the precedent for future similar requests. Mr. Rollans asked the Board to site the facility elsewhere.

Chairman Edds referred to page 2 of the Staff Report (Exhibit B) and asked Mr. Stewart if the Board should send the request back as an incomplete application. (At this point, a portion of the recording was inaudible for transcription). Mr. Stewart referred to a different request and noted Duke Energy would not allow for the location of six (6) dishes and it would be up to the Board whether to require a letter from Duke Energy. Mr. Stewart said Sloan Park would be a good location since churches and parks were listed as preferable sites, which is probably why the applicant did not pursue the requirement for sending/obtaining the letters. Mr. Stewart said Staff was not making an assertion and felt that after six (6) months of working with applicant, the information was enough for the Commissioners to consider. Mr. Stewart continued by saying the information/application was different than an application for a broadcast tower. Mr. Stewart said it would be up to the Board to decide if it wanted more information. Mr. Stewart said in fairness to the applicant, after four (4) submittals, Staff felt the information was enough for the Board to consider. Mr. Stewart noted the criteria was predicated on a new tower such as for Verizon, for example. The application under consideration was internet based and not for a tall structure like a cell tower. Mr. Stewart said there would be no co-locations since the request was not the same as for a tower.

In response to an inquiry from Chairman Edds, Mr. Whitley said the dishes in question were transmission dishes. Mr. Whitley said the location was picked to address all the concerns mentioned during the hearing. Mr. Whitley noted the site did preserve the surrounding area as the applicant would not have to put up a 9,000 square foot facility next to a church, or, dig up the ground because there was already fiber next to the site. Mr. Whitley said the applicant would tap into the existing fiber and minimize the impact on the surrounding area. Mr. Whitley explained that the trees could not exceed the top of the fence because there would be a signal coming from the satellite to communicate. Mr. Whitley said the location was not just for the neighborhood but rather statewide in order to provide broadband service. Mr. Whitley said the site would help provide a solution for those who could not receive internet.

According to Mr. Whitley, the dishes were large and could not co-locate on a telecommunication tower. Mr. Whitley continued by saying the County's code was written for telecommunication structures/towers and the proposal was for a communication facility. Mr. Whitley said there was separation that must be met.

Mr. Whitley said there would be no adverse effects on wetlands or woodlands because there were none located on the property under consideration. With regards to the 10' metal fencing, Mr. Whitley reported the fence was required by the FCC as a barrier to keep the RF from going out of the facility. Mr. Whitley was of the opinion the site was the most feasible with the least impact to the surrounding area.

Commissioner Caskey asked if there was a way to aesthetically make the fence to look like something on a farm. Mr. Whitley said he could look into the request but was uncertain what the aesthetic improvements could be at 10' high. Commissioner Caskey asked if the Society could paint something on the side. Mr. Whitley said the applicant would be open to explore options to paint (i.e., barn, barn quilt) on the side, or, a different color.

With no further testimony to be provided, Chairman Edds closed the public hearing.

Chairman Edds was inaudible for a few minutes as he talked about the existing utilities around the location.

Commissioner Caskey felt shrubbery should be placed around the metal fencing and suggested the applicant work with the outside groups to make it look better.

Commissioner Pierce said the County had been inundated the last few years with people who wanted internet service and the County had worked diligently to help. Commissioner Pierce felt the proposed project would be one more piece "of the puzzle" to providing internet service. Commissioner Pierce said the County had invested millions to advance the County with broadband/internet and he was of the opinion the Board needed to support bringing affordable internet service to the western portion of the county.

Chairman Edds said in looking back through the years, the County had made mistakes regarding infrastructure that placed the County behind. Chairman Edds said people had moved because they did not have access to the internet. Chairman Edds said the County was building emergency facilities driven by internet, etc. and he felt the proposed project would be the least intrusive of the existing power lines, fencing, pipelines that required maintenance, etc.

Chairman Edds moved the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety.

FACT: Based on plans submitted and established conditions of approval, the proposed facility will comply with all applicable Federal, State, and Local regulations.

FACT: Rowan County telecommunications consultant City Scope concluded “the proposed facility, at least from a health and safety viewpoint, would not have a problematic effect on the residents of the County”.

The motion was seconded by Commissioner Pierce and carried unanimously (4-0).

Chairman Edds moved that the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity.

FACT: No material evidence was presented suggesting this request would injure property values.

The motion was seconded by Commissioner Pierce and passed unanimously.

Chairman Edds moved that the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans.

FACT: This request complies with all specific special use requirements in section 21-60 (4) of the Zoning Ordinance.

FACT: Facility improvements will primarily be screened by a ten foot green metal fence and evergreen shrubs along three sides.

FACT: The subject property is located adjacent to a Duke Energy transmission line and a Williams-Transco natural gas pipeline and associated communications compound at 295 Upright Road.

Commissioner Pierce seconded and the motion carried unanimously (4-0).

Commissioner Pierce moved, Commissioner Greene seconded and the vote to approve SUP 03-22 passed unanimously (4-0).

5. PUBLIC HEARING FOR Z 05-22

(Note: Agenda items #4 and #5 were switched in the order of presentation/discussion but were left in numerical sequence for the purpose of the minutes).

Planner Aaron Poplin presented the staff report, as well as a power point, for rezoning petition Z 05-22. Mr. Poplin stated the Sutton Children LLC were petitioning to rezone their parcel at the approximate 3700 block of Mooresville Road from Rural Residential (RR) to Commercial, Business, Industrial with a Conditional District (CBI-CD) for the placement of a mini-storage warehouse facility. The property was further referenced as county tax parcel 463A289.

Mr. Poplin showed photos of the property and the surrounding area via the power point.

Mr. Poplin said the property was located in Area 2 of the Western Area Land Use Plan (LUP) areas adjacent to Salisbury, Spencer, China Grove, and Landis. Area 2 encouraged mixed development throughout the area. Mooresville Road/NC Highway 150 was identified as a major thoroughfare and the LUP recommended Highway Business off major thoroughfares and NC highways.

The LUP recommended considering building appearance, design elements and landscaping for new businesses. Conditional district rezonings offered the Board an opportunity to recommend these enhanced design elements in the form of mutually agreed upon conditions.

Mr. Poplin noted the proposed mini-storage warehousing had higher performance standards included, which were not typical to the mini-storage facilities that had been brought to the Board in recent years. One of the more notable differences included a manned office with a masonry façade and windows instead of only metal siding. The heavy duty asphalt paving was a higher standard than the gravel paving commonly used in storage facilities in the County.

Using a power point, Mr. Poplin reviewed the consistency with the requested zoning district's purpose and intent, compatibility of all uses within the proposed district classification with other properties, and the potential impact on facilities such as roads, utilities and schools. Mr. Poplin noted the North Carolina Department of Transportation (DOT) had indicated it did not have an issue with granting access off Mooresville Road; however, the DOT had not issued a formal driveway permit.

The Planning Board held a courtesy hearing on the matter in July. Multiple people from the community spoke in opposition with concerns related to traffic issues, safety, property values, and privacy.

The applicant amended the request following the Planning Board meeting. The applicant reduced the scale of the use to address some of the concerns of the community and Planning Board. The most notable changes were as follows:

- Reduction from 6 to 4 buildings. Total storage capacity reduced from 112,000 square feet to 80,000 square feet.
- Removal of parking area for boats and RVs.
- Removal of the secondary entrance off of John Rainy Road.
- Increase of the buffer area from 20' to 25' and 30'.
- Increase in vegetative screening for adjoining residences.
- Wood or Vinyl fencing added to buffer area with adjoining residences off of Mooresville Rd.

Planning Board members raised concerns the use would go behind existing houses and surround the residence at 3707 Mooresville Rd on two (2) sides. The Planning Board also acknowledged the traffic concerns but decided it was not relevant to the request as the amount of traffic on the road was a problem prior to the request.

The Planning Board adopted the following statement: Statement of Consistency and Reasonableness – Z 05-22 is not consistent with the Western Land Use Plan or reasonable/appropriate based on the following:

- The project size of 96000 square feet on 5.98 acres of land is out of scale with the area;
- The project will split the existing houses (4);
- The project will overwhelm the neighborhood.

The statement was adopted with a vote of 4 to 2 and a motion by the Planning Board to deny the application was adopted by a vote of 4 to 2.

Staff comments outlined in the staff report included:

- Higher Standards described in the building elevations could change unless added as a mutually agreed upon condition of approval. However, the asphalt paving is on the site plan so it would be required without adding a separate condition.
- The applicant had mentioned shielding the lighting. The Board could consider requiring the shielding of the lighting as a condition of approval.
- With the request being a conditional district, the Board could add mutually agreed upon conditions to address other concerns that were not adequately addressed in the updated site plan.

Procedurally, Mr. Poplin reported the Board must develop a statement of consistency describing whether its action was consistent with any adopted comprehensive plans and indicate why their action was reasonable and in the public interest. A statement analyzing the reasonableness of the decision was also necessary to substantiate a small-scale zoning decision. While spot zoning in North Carolina was considered legal, it had to be determined as reasonable based on a number of factors established by the courts.

Commissioner Klusman questioned the use of gravel versus asphalt. Mr. Poplin said the applicant chose asphalt as a higher standard. County Attorney Jay Dees pointed out the retention pond would also be in place, as well.

Chairman Edds opened the floor for comments from the applicant and Frank Sutton came forward, along with his son Drew Sutton. Mr. Sutton said Drew was one of his five (5) children in Sutton Children, LLC. Mr. Sutton stated his grandfather had farmed the property in question.

Mr. Sutton said he had lived on the property and had been a member of Neel Road Baptist Church. Mr. Sutton described the proposed project as neighborhood business and stated

Sutton Children, LLC would oversee the fulltime management. Mr. Sutton said fulltime management would be on site, as well. Mr. Sutton provided a handout, which was a rendering of the proposed business and other small businesses in the area. Mr. Sutton said the proposed use would most likely generate the least traffic of the small businesses around the property. Mr. Sutton said the storage units would be indoor, climate-controlled and there would not be a lot of activity going on outside of those buildings. Mr. Sutton said Rowan County currently had only one (1) climate-controlled warehouse and it was at capacity. Mr. Sutton said Sutton Children, LLC wanted to be a good neighbor and felt there was a need for the units. Mr. Sutton referred to the aerial photo in the handout and pointed out the wooded buffer almost completely surrounding the property. Mr. Sutton said the building at the corner of John Rainey and the entrance was removed from the plans after listening to the Stratmann's concerns. The requirements called for a 20 foot landscape buffer and Mr. Sutton said the project was now averaging 25-28 feet. A significant amount of landscaping and fencing had been added. Mr. Sutton said the plans had been created via full civil engineering, a perk test had been performed, and the driveway and stormwater was sufficient. Mr. Sutton said Sutton Children, LLC. had invested in the buildings for years and he continued by discussing the proposed project's tasteful appearance, as well as the elevations. In closing, Mr. Sutton said there would be additional buffering not currently in the plans. The business had also taken the Anthony household under consideration and tried to use the naturally existing wooded buffer and supplemented with as much buffering as was needed.

Drew Sutton said his dad had done a great job highlighting the changes. Drew said Sutton Children, LLC. had tried to be mindful of the community and the commentary made at the Planning Board meeting. Drew stressed the business wanted to be good stewards and an asset to the community going forward.

Commissioner Klusman inquired as to the height of the trees. Mr. Sutton said the plans called for Leyland Cypress, a fast-growing tree. Mr. Sutton assured Commissioner Klusman the landscape plan would be as nice as possible. Mr. Sutton said the facility would stand out from the competition. Drew added that dying trees would do the business no favor with potential clients and the landscaping would be manicured and well maintained.

Commissioner Klusman asked the applicant would be agreeable including in the conditions that all dead screening would be replaced. Mr. Sutton responded yes.

Commissioner Klusman discussed her preference for the use of crushed stone as opposed to asphalt due to water runoff.

Commissioner Greene inquired as to the type and direction of the lighting to be used. Mr. Sutton said the plan was to use lighting that was "hooded" on the corners of the buildings to prevent the lighting from pushing out into the neighborhood. Mr. Sutton said the buildings would be relatively one height/one story and he talked about the civil engineering plans and how the business would use the substantial drop-off to its advantage with the

lack of visibility/lighting of the facility to the neighbors.

Chairman Edds opened the public hearing to receive citizen input regarding Z 05-22. The following individuals came forward:

- Christopher Masingo and his wife, Robin, of Mooresville Road came forward. Mr. Masingo said he was the owner/operator of Masingo's Motor Company. Mrs. Masingo provided a petition, which she said contained forty-one (41) signatures in opposition to the new site plan. Mrs. Masingo stated people in the community were concerned not only about traffic but about the safety as to who would be coming and going from the facility. Mrs. Masingo talked about preserving the area from infrastructure and building. Mrs. Masingo talked about the safety of children and also who would be in/out of the facility once the onsite manager left at 5:00 p.m. each day. Mrs. Masingo provided more handouts to the Clerk about human trafficking. Mrs. Masingo felt the buffering was not acceptable and talked about the view of the site the neighbors would have.

Mr. Masingo explained the reason for the current backlog of 13-14 cars at Masingo's Motor Company. Mr. Masingo said his goal was to be in a new commercial facility in about eighteen (18) months. Mr. Masingo said he bought the house in 2016 to raise his family there and hoped to be there long-term. Mr. Masingo compared the size of the facility to the square footage of surrounding homes. Mr. Masingo also talked about the potential for increased criminal activity that could result from the project's location. Mr. Masingo asked the Board not to approve the request.

Mrs. Masingo shared her support for their veteran customers and her community work with veterans/military based programs.

- Lindsay Stratmann used the power point provided by Mr. Poplin to indicate where the Stratmann property was located in relationship to the proposed project. Ms. Stratmann said she had an elderly neighbor who was opposed to the proposed facility; however, the neighbor had been unable to attend the meeting. Regardless of the materials used to build the facility, Ms. Stratmann said it would not make the facility more acceptable. Ms. Stratmann stated her front porch would be seen by thousands of people who came to the facility.
- Jason Sutton, cousin to Frank Sutton, said he had been a member of the community his entire life. Jason talked about the growth occurring in the County and the infrastructure that inevitably came with growth. Jason said Mr. Sutton had the care and the resources to ensure the project was built right. Jason said the facility would provide more than a service for storing items and Mr. Sutton was the right person for the proposed project.
- Jerry Anthony stated he lived on the right side of where the proposed facility would be built. Mr. Anthony expressed concern with what might happen to the well water in the area as a result of the runoff from John Rainey Road and the holding pond.

- Mr. Anthony talked about new developments occurring on Highway 150 and he expressed concern with the traffic and how the proposed facility would contribute to the traffic issues. Mr. Anthony talked about residents wanting to live in the “country” and said he did not feel the site was the appropriate place for the proposed facility.
- Dewey Bryan, a resident of Mount Ulla, said he had known Mr. Sutton since 1971 and been a friend to the Sutton family for many years. Mr. Bryan said the previous speaker had talked about living in the “country.” Mr. Bryan said people might think Mount Ulla was in the country; however, he talked about the increased number of houses in the Mount Ulla area since he had moved there years ago. Mr. Bryan said he could not stop the growth. Mr. Bryan said his family could hear the noise from the Millbridge Speedway; however, the noise and growth were things people could not control. Mr. Bryan said he was present to vouch for Mr. Sutton and his family. Mr. Bryan assured the Board if Mr. Sutton was doing a project, it would be done right. Mr. Bryan said he had seen other businesses built by the Sutton Family and all had been done in good taste and to perfection. Mr. Sutton said he understood the concerns; however, he felt with Mr. Sutton’s professionalism, the buffers and facility would be done right.
 - Chris Stratmann provided a handout to the Clerk and discussed its contents. The first page showed the homes in relation to Mr. Sutton’s plans. Mr. Stratmann felt the plan did not show how close the homes were in comparison to the size of the buildings. Mr. Stratmann said there was more Mr. Sutton could have done to improve the plan. Mr. Stratmann said he researched all the mini storage facilities in the area, which was also included in the handout. Mr. Stratmann talked about the distance of the proposed facility to the houses in the vicinity and said the families did not welcome the commercial property and potential crime it might bring.
 - Joe Harper of Roger Drive in Homestead Hills said he moved to the area sixteen (16) years ago and his property backed up to John Rainey Road. Mr. Harper talked about land that had been cleared by a developer for approximately fifteen (15) homes. Mr. Harper said there was already a good deal of garbage collecting at the back and he felt the proposed facility would add to it.
 - William Yost, owner of Cauble Creek Vineyards, said his grandmother had owned property across from the Suttons and the two (2) family’s relationships went back for many years. Mr. Yost said his family liked growth in a balanced manner and he supported agriculture, sustained growth and protecting the environment. Mr. Yost talked about growth along the I-85 corridor and the balance for the growth. Mr. Yost said the area under consideration was not the “country” anymore. Mr. Yost said he listened to the comments of the previous speakers and with regards to security issues, the storage facility would have heightened security. Mr. Yost said he had done civil engineering and he knew the runoff would not be disruptive and the holding pond would be safe. Mr. Yost referred to Mr. Masingo’s auto business and said there was no guarantee Mr. Masingo’s business would ever move. Mr. Yost felt Highway 150 would eventually be four (4) lanes. Mr. Yost said he had watched children grow up, leave the County and try to come back and make something (create business opportunities). Mr. Yost said Mr. Sutton’s parents and children had respect for others and good morals. Mr. Yost said the largest traffic

flow coming into the facility would be during the initial startup and would decrease within the first or second year. Mr. Yost spoke in support of the project and said the County needed businesses like it to help with taxes and property values. According to Mr. Yost, the Sutton family would protect the land and leave it as part of the Sutton Family legacy.

With no one else wishing to address the Board, Chairman Edds closed the public hearing.

Chairman Edds said there was a time when the County was desperate for projects to come into the County. Chairman Edds said the Commissioners had to try to manage the growth and do so with great respect for the opinions of the public. Chairman Edds said the North Carolina Department of Transportation (DOT) had safeguards in place with regards to traffic and the Board relied on the DOT to control traffic issues. Chairman Edds stated he did not worry about criminals taking over Mooresville Road because of a storage facility and said he did not foresee the safety as being worse than with any other business. Chairman Edds said he had sold his house and currently had his family's belongings in a storage facility. Chairman Edds said Mooresville Road was a thoroughfare corridor and there would be business and industry along Mooresville Road. Chairman Edds addressed the Sutton Family and said they appeared to be good and honorable people. Chairman Edds said people were moving to Rowan County and he knew they would need the storage. Chairman Edds said for him, it came down to whether the location was the right place and he did not feel it was.

Commissioner Greene said he understood what Chairman Edds had said; however, the facility was a projected \$5 million facility with a lot of indoor storage, which was rare for the community. Commissioner Greene said he had a tough time with property rights and telling people what they could do with their property. Commissioner Greene said there were three (3) commercial facilities already around the proposed site. Commissioner Greene said the request would not completely change the neighborhood. Commissioner Greene said there were trees everywhere on John Rainey Road to help cut down on the view. Commissioner Greene said the homes were pretty isolated. Commissioner Greene said the Sutton's wanted to make a major investment and would be providing a service needed in the community. Commissioner Greene supported the request and he appreciated the changes the Sutton's had made to the proposal to minimize the effects on the community.

Commissioner Klusman concurred with the comments by Commissioner Greene. Commissioner Klusman pointed out the use would be quiet compared to other businesses that might locate on the property. Commissioner Klusman referred to the People's Mulch and Stone business located just down the road and pointed out the business was not pretty to look at and generated dust and odors. Commissioner Klusman said the request before the Board was part of growth and she felt the Sutton Family had the right to develop their land.

Commissioner Caskey said the County was fortunate to have growth and the Board had to try to find balance between empathy and sympathy with the citizens' concerns. Commissioner Caskey did not feel traffic or crime would be a problem at the proposed site and he felt the testimony about the Sutton Family showed they cared about the County and the community. Commissioner Caskey felt the proposed storage facility was the best the Board had seen; however, he did not feel the facility was the best fit for the area. Commissioner Caskey said he could not support the request.

Commissioner Pierce said he viewed the request from a couple angles and there was no way to make everyone happy. Commissioner Pierce said the Sutton's homeplace had been in the family for years and there was a definite need for the project. Commissioner Pierce said he would support the request.

Chairman Edds said the Planning Board had voted against the request and the Commissioners had the Planning Board's Statements. Mr. Poplin responded the Commissioners would need a separate set of Statements of Reasonableness and Consistency. Mr. Poplin added that if the Board wanted to vote in favor of the request, it could consider that the LUP recommends highway business off of major thoroughfares and include added conditions that could protect adjoining residences, as well.

Commissioner Pierce moved for the Statement of Reasonableness that the use was consistent with the Western LUP for business down the major corridors in that area and is reasonable and consistent with the zoning being requested. The motion was seconded by Commissioner Greene.

Upon being put to a vote, the motion on the floor passed 3-2 with Chairman Edds and Commissioner Caskey dissenting.

Mr. Poplin said before voting on approval, the Board could work with the applicant to determine any specific conditions the Board might want to place on the request.

After further discussion with the applicant, Commissioner Pierce moved to approve the conditions that the applicant maintains the current architectural finishes and make sure that all areas that can possibly be screened are screened for maximum density. The motion to approve the conditions was seconded by Commissioner Greene and passed 3-2 with Chairman Edds and Commissioner Caskey dissenting.

Commissioner Pierce moved, Commissioner Greene seconded and the vote to approve Z 05-22 carried 3-2 with Chairman Edds and Commissioner Caskey dissenting.

Chairman Edds called for a recess at 7:44 p.m.

Chairman Edds reconvened the meeting at 8:01 p.m.

- For the record, and following the public hearing for Z 05-22, Chairman Edds moved at 6:42 p.m. to excuse Commissioner Klusman from the remainder of the meeting. The motion was seconded by Commissioner Pierce and passed unanimously (4-0).

6. PUBLIC HEARING FOR HLC 02-22

Planner Aaron Poplin reported the Historic Landmarks Commission (HLC) received an application from John Carlyle Sherrill to establish the John Carlyle and Anita Sherrill House (House) as a Rowan County historic landmark. The House was located at 14175 NC 801 Highway and further referenced as Tax Parcel 566-048. The applicant wished to designate the exterior of the house along with the 1.18 acre lot it sits on.

The Rowan County HLC's mission was to identify and inventory properties within the county having historical, pre-historical, architectural, and cultural significance, and make recommendations to the County Commissioners regarding sites, areas, structures, and objects to be designated as "Historical Landmarks". Since the HLC was established in 2003, the Commission had recommended nine (9) other structures for designation.

The HLC wished to recognize the House because of its significance under the category of architecture.

Mr. Poplin provided a power point as he highlighted the historical background, statement of significance, and additions/alterations.

Mr. Poplin reviewed the comments Planning Staff had received on September 9, 2021 from Kristi Brantley, State Historic Preservation Office (SHPO). SHPO recommended a few changes to the report to recognize that the repairs and additions stayed in character with the original construction and Colonial Revival style.

The HLC revised its report based on the SHPO comments. The HLC deemed the *John Carlyle and Anita Sherrill House* to be of special significance in terms of its historical and cultural importance, and to possess integrity of design, setting, workmanship, materials, and character. On August 9, 2022, the HLC conducted a courtesy hearing to receive comments regarding the John Carlyle and Anita Sherrill House designation. No one spoke in opposition to the designation. On a vote of 4-0, the HLC recommended landmark designation for the exterior of John Carlyle and Anita Sherrill House.

Chairman Edds opened the public hearing to receive citizen input regarding HLC 02-22. With no one wishing to address the Board, Chairman Edds closed the public hearing.

Commissioner Pierce moved, Commissioner Greene seconded and the vote to approve HLC 02-22 carried unanimously (4-0).

Commissioner Pierce moved to approve the Ordinance Designating the John Carlyle and Anita Sherrill House in the Jurisdiction of Rowan County, North Carolina as a Local

Historic Landmark. The motion was seconded by Commissioner Greene and carried unanimously (4-0).

7. PRESENTATION OF 2023 SCHEDULE OF VALUES

Chairman Edds introduced and welcomed Wendell Main, Rowan County Assessor.

Mr. Main presented the Board with the Schedule of Values (SOV), Standards and Rules for the 2023 Rowan County Revaluation.

Using a power point, Mr. Main discussed the revaluation (reappraisal) process. The highlights were as follows:

- This is the process of updating Rowan County's real property values to reflect fair market value as of January 1, 2023.
- Reappraisal reestablishes the fairness of the tax burden between properties which typically change in value at different rates by location and property type.
- It is required by N.C.G.S. 105-286 at least once every eight years.
- Rowan County is currently on a 4 year reappraisal cycle.
- The last countywide reappraisal was conducted 4 years ago with an effective date of January 1, 2019.

Mr. Main reviewed the appraisal facts.

According to Mr. Main, the average increase across all property types in North Carolina counties with 2022 revaluations was 14% to 50%. Rowan County had approximately 80,563 parcels:

*Residential Parcels: 51,642

*Commercial/Industrial/Exempt Parcels: 6,705

*Vacant Parcels: 22,216

The property value percentages of the tax base in Rowan County were:

- Real Property: 78%
- Personal Property: 8%
- Public Utility: 5%
- Motor Vehicles: 9%

Mr. Main discussed the revaluation timeline provided in the agenda packets and requested the Board schedule a public hearing on the SOV for November 7, 2022.

In response to questions from Chairman Edds, Mr. Main explained the last revaluation was done in 2019. Mr. Main said the most emphasis in the revaluation would be on more recent sales and that staff would consider all data right up through December 31, 2022.

Mr. Main described how the percentages may vary between neighborhoods. Mr. Main said the revaluation would have a significant impact on next year's budget.

Commissioner Caskey noted inflation was driving housing prices down. Mr. Main said the values were going to be based on the analysis of the most recent two (2) years; however, any downward trends would be taken into consideration.

Chairman Edds moved, commissioner Pierce seconded and the vote to set the public hearing for November 7, 2022 passed unanimously (4-0).

8. APPROVAL OF FINANCING AND PURCHASE OF PUBLIC SAFETY RADIOS FOR PROJECT 25

Allen Cress, Chief of Emergency Services, discussed the purchase of public safety radios for Project 25. Mr. Cress said Rowan County started the process for the purchase in January 2021. Motorola was the low bidder and approved by the Board of Commissioners on May 2, 2022 for the purchase of public safety radio equipment in the amount of \$7,949,882.01.

Finance Director Anna Bumgarner explained that when the Board went out for quotes for the financing, staff was still working on the final number of radios needed. Ms. Bumgarner said the County would actually be borrowing \$7.998 million with the low bid for financing from Truist Financial Corporation at an interest rate of 3.54%.

In response to an inquiry from Commissioner Pierce Mr. Cress said the old radios would be traded in and the price reflected the trade-in value.

Ms. Bumgarner reviewed the three (3) motions in the agenda packet that were needed.

Chairman Edds moved to approve the Resolution and budget amendment to authorize the Finance Director to establish an escrow account for the loan proceeds. The motion was seconded by Commissioner Pierce and passed unanimously (4-0). The Resolution read as follows:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT FINANCING CONTRACT TO FINANCE THE ACQUISITION OF CERTAIN RADIO EQUIPMENT

WHEREAS, the Board of Commissioners (the "Board") of the County of Rowan, North Carolina (the "County") desires to finance the acquisition of certain radio equipment (the "Equipment"), for use by the County's emergency medical services (the "EMS"); and

WHEREAS, the County desires to finance the Equipment by executing and delivering an installment financing contract, as authorized under Section 160A-20 of the General Statutes of North Carolina; and

WHEREAS, the County sent out a request for proposals to a number of banks relating to the financing on September 27, 2022; and

WHEREAS, _____ (the "Bank") submitted a proposal to the County dated October ___, 2022 (the "Proposal"), pursuant to which the Bank shall enter into an installment financing contract with the County in the amount of up to \$8,650,000 (the "Contract") to finance the Equipment, and to pay certain costs associated with the financing, to be secured by a lien on the Equipment;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County (the "Board of Commissioners"), as follows:

1. The Board of Commissioners hereby accepts the Proposal, and authorizes and directs the Chairman, the County Manager, the Finance Director and the Clerk, or any of them, to execute, acknowledge and deliver the Contract on behalf of the County, with such changes and modifications as the person executing and delivering such instruments on behalf of the County shall find acceptable. The Clerk is hereby authorized to attest the same.
2. Each of the County Manager and other appropriate officers of the County is hereby authorized and directed to execute and deliver any and all papers, instruments, agreements, tax certificates, opinions, certificates, affidavits and other documents, and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Contract and the acquisition and financing of the Equipment.
3. All other acts of the Board of Commissioners and the officers of the County, which are in conformity with the purposes and intent of this resolution and in furtherance of the financing of the Equipment, are hereby ratified, approved and confirmed.
4. This resolution shall take effect immediately.

Chairman Edds moved to authorize the County Manager to enter into an installment financing contract with Truist Financial Corporation. The motion was seconded by Commissioner Pierce and passed unanimously (4-0).

Chairman Edds moved, Commissioner Pierce seconded and the vote to authorize the purchase of public safety radio equipment from Motorola in an amount of \$7,949,882.01 carried unanimously (4-0).

After further discussion, Chairman Edds moved to enter into a financing contract with Truist Financial in the amount of \$7,998,000.00. The motion was seconded by Commissioner Pierce and carried unanimously (4-0).

A copy of the approved documents are attached to these minutes for the record.

9. DISCUSSION REGARDING DECEMBER MEETING SCHEDULE

Chairman Edds stated the Board of Commissioners typically holds one (1) meeting in the month of December, when possible, due to the holidays. Chairman Edds asked the Board to consider whether it wished to cancel the second regular meeting in December, which was scheduled for December 19, 2022.

The first regular meeting of the month was scheduled for December 5, 2022 at 3:00 p.m. Chairman Edds noted the Board would need to conduct a public hearing for a large project at 6:00 p.m. on that date, which might require the Board to recess between 3:00 p.m. and 6:00 p.m.

By consensus, the Board members were agreeable to cancel the second meeting in December.

10. FINANCIAL REPORTS

Finance Director Anna Bumgarner presented several financial graphs depicting the following information:

- Annual Cumulative Expenditure Comparisons as of September in FY 2023 - \$38,175,708
- Annual Cumulative Revenue Comparisons as of September in FY 2023 – \$73,974,458
- Annual Cumulative Sales Tax Comparisons as of June in FY 2022 - \$36,902,037
- Monthly Sales Tax Comparisons as of June in FY 2022 - \$3,337,810
- Annual Cumulative Current Year Property Tax Comparisons as of August in FY 2023 – \$54,668,249

11. BUDGET AMENDMENTS

Finance Director Anna Bumgarner presented the following budget amendment for the Board's consideration:

- Finance – Budget salaries and benefits for library staff that will be paid from the Robertson Foundation Grant. \$50,000

Commissioner Pierce moved approval of the budget amendment as presented. The motion was seconded by Commissioner Greene and passed unanimously (4-0).

12. CLOSED SESSION

Chairman Edds moved at 10:07 p.m. for the Board to enter into Closed Session in accordance with North Carolina General Statute § 143-318.11(a)(1) to consider approval of the minutes of the Closed Session held on October 3, 2022; and in accordance with North Carolina General Statute § 143.318(a)(3) for attorney-client privileged communication regarding:

1. Zoning Compliance
2. A lease at the Airport;
3. A settlement agreement

The motion was seconded by Commissioner Pierce and passed unanimously.

The Board returned to Open Session at 10:53 p.m.

Commissioner Pierce moved to authorize the Manager to enter a settlement agreement for West Ridge Road. The motion was seconded by Commissioner Greene and passed unanimously (4-0).

13. ADJOURNMENT

There being no further business to come before the Board, Commissioner Pierce moved to adjourn at 10:53 p.m. The motion was seconded by Commissioner Greene and passed unanimously (4-0).

Respectfully Submitted,

A handwritten signature in cursive script that reads "Carolyn Barger".

Carolyn Barger, MMC, NCMCC
Clerk to the Board

USE OF PROCEEDS CERTIFICATE

The undersigned Finance Director of the County of Rowan, North Carolina (the “Borrower”), is among the Borrower’s officers charged with responsibility for the Borrower’s entering into an Installment Financing Contract dated as of October 27, 2022 (the “Contract”), with Truist Bank (“Lender”). This Certificate is delivered as part of the official record of the proceedings for the delivery of the Contract, as contemplated by Treasury Regulations Section 1.148-2(b)(2). I am executing and delivering this Certificate on behalf of the Borrower to set forth in good faith the Borrower’s reasonable expectations concerning the use and investment of financing proceeds and other related matters, in order to assure that interest on the Obligations (as defined below) will be excluded from gross income for federal income tax purposes. I understand that I have an obligation to make the representations in this Certificate both correct and complete.

All capitalized terms used in this Certificate and not otherwise defined have the meanings assigned to such terms under the Treasury Regulations applicable to tax-exempt bonds.

PURPOSE OF CONTRACT

1. The Borrower is executing and delivering the Contract today to provide funds to finance the acquisition of the equipment set forth in the Contract (the “Equipment”), and to pay certain financing costs. Lender will advance funds for the Equipment to the Borrower pursuant to the Contract. Lender is entering into the Contract for its own account with no current intention of reselling its rights under the Contract or any interest therein, except that Lender may make an assignment of payment rights to an affiliate, in whole, at par and without recourse.

PROCEEDS; PAYMENT OBLIGATIONS

2. (a) In accordance with the Contract, Lender will advance on behalf of the Borrower the amount of \$7,998,000 (the “Proceeds”) by making a deposit into a Project Fund created pursuant to the Contract.

(b) Under the Agreement, the Borrower is obligated to pay Installment Payments (as defined in the Contract) on the dates and in the amounts set forth in the Contract (the Borrower’s obligations to pay Installment Payments are referred to in this Certificate as the “Obligations”), subject to prepayment as provided in the Contract.

(c) The Installment Payments reflect the repayment of the Proceeds and include a designated interest component corresponding to an annual interest rate as set forth in the Contract. The Borrower does not expect to prepay any of the Obligations prior to the scheduled payment dates.

USE OF PROCEEDS; REIMBURSEMENT

3. (a) All of the Proceeds and all investment earnings thereon will be used to pay Project Costs, including costs incurred in connection with the execution and delivery of the Contract and interest on the Obligations during the construction period.

(b) All of such costs will be incurred and expenditures made subsequent to today, except for

reimbursement to the Borrower for (i) amounts (A) paid by the Borrower not more than 60 days prior to the Borrower's declaration of its official intent to reimburse itself for such expenditure, and (B) paid by the Borrower within 18 months of the later of (1) the date the original expenditure was paid, or (2) the date the project to which such expenditure relates was placed into service (but in no event more than three years after the original expenditure was paid); (ii) amounts representing preliminary expenditures such as engineering, design and similar preliminary expenses, as well as any legal, accounting, or other professional fees incurred in connection with the Borrower's entering into the Contract and related transactions, in an aggregate amount not exceeding 20% of the principal amount of the Obligations, or (iii) an amount not exceeding the lesser of \$100,000 or 5% percent of the Proceeds.

(c) All of the costs to be paid or reimbursed from Proceeds will be Capital Expenditures, and none will be Working Capital Expenditures. No portion of the Gross Proceeds will be used, directly or indirectly, to make or finance loans to two or more ultimate borrowers.

QUALIFICATION FOR TEMPORARY PERIOD

4. Acquisition of the Equipment will begin, or did begin, on or about _____. Acquisition of the Equipment will proceed with due diligence, and the Equipment will be placed in service beginning on or about _____. Within six months of today (if it has not already done so), the Borrower will enter into substantial binding obligations to third parties to spend Proceeds on Project Costs that are Capital Expenditures in an amount exceeding 5% of the amount financed. The Borrower estimates that all the Proceeds and all the investment earnings thereon will be fully expended within _____ months from today.

INVESTMENT PROCEEDS

5. (a) Any earnings or net profit derived from the investment of the Proceeds will be used to pay additional Project Costs or interest on the Obligations not later than the date that is the later of (i) three years from today or (ii) twelve months from the date of the receipt of such earnings.

(b) After the date that is three years from today, the Borrower will not invest any of the Gross Proceeds at a Yield in excess of the Yield on the Obligations.

(c) No investment will be acquired or disposed of at a cost or price that exceeds its Fair Market Value as of the acquisition date, or which is less than its Fair Market Value as of the disposition date. No portion will be invested in any investment as to which the economic return is substantially guaranteed for more than three years.

(d) No portion of the Gross Proceeds will be used, directly or indirectly, to replace funds that the Borrower used (directly or indirectly) to acquire securities or obligations producing (or expected to produce) a Yield higher than the Yield on the Obligations.

NO OVER-ISSUANCE OR EXCESSIVE MATURITY

6. (a) The sum of the Proceeds and the reasonably expected investment earnings thereon does not exceed the amount reasonably expected to be required to pay Project Costs, including interest on the Obligations during construction and financing costs.

(b) The term of the Obligations is not longer than reasonably necessary for the governmental purposes thereof, and is not longer than the expected remaining useful life of the Equipment.

(c) In connection with the issuance of the Obligations, the Borrower has not utilized any device (not described in this Certificate) which attempts to circumvent the restrictions of the Code to exploit the difference between tax-exempt and taxable interest rates to obtain a material financial advantage. The Borrower has not attempted to increase improperly the burden on the market for tax-exempt securities (for example, by selling its obligations in larger amounts or with longer maturities, or selling them sooner, than would otherwise be necessary).

COMPLIANCE WITH REBATE REQUIREMENT

7. In the Contract, the Borrower has agreed to comply with provisions of the Code which in some circumstances require the Borrower to pay some of its investment earnings to the United States, as provided in Code Section 148.

PRIVATE ACTIVITY TESTS

8. No payment on the Obligations is secured by property to be used in any private business (meaning any trade or business carried on by any person, including the federal government, that is not a state or local government, but excluding uses by any person as a member of the general public). None of the Proceeds are to be used for any such private business use. The Borrower has no leases, management contracts or other agreements with private entities or the federal government for either (a) management or operation of the Equipment, or (b) the use of designated portions of the Equipment.

QUALIFIED TAX-EXEMPT OBLIGATIONS

9. (a) For the reasons set forth in Section 8 above, none of the Obligations are “private activity bonds” within the meaning of Code Section 141. The aggregate amount of tax-exempt obligations, including the Obligations, issued and reasonably expected as of today to be issued in the current calendar year by (i) the Borrower, (ii) all entities on behalf of which the Borrower issues tax-exempt obligations, (iii) all governmental units that are “subordinate” to the Borrower, within the meaning of Code Section 265(b)(3), and (iv) all entities that issue tax-exempt obligations on behalf of the same such entities, does not exceed \$10,000,000. The Borrower has no reason to believe that the Borrower and such other entities will issue tax-exempt obligations in the current calendar year in an aggregate amount that will exceed such \$10,000,000 limit.

(b) In making the statements in subparagraph (a) above, I have taken into account (i) all the Borrower’s departments and agencies and (ii) all political subdivisions or other entities (x) which have the power to borrow money or enter into contracts and (y) of which the Borrower is a member or over which it has legal or practical control. For all of such entities, I have taken into account all bonds, bond anticipation notes, installment or lease-purchase contracts and all other obligations to pay money (excluding only current accounts payable and private activity bonds) issued or to be issued or contracted by such entities in the current calendar year. I have not included any private activity bonds or any refunding obligations excluded from the annual \$10,000,000 calculation by Code Section 265(b)(3).

(c) The Borrower designates each of the Installment Payments under the Contract as a “qualified tax-exempt obligation” for the purposes of the Code.

INVESTED SINKING FUNDS

10. There are no funds (a) to be held under the Contract or (b) which are pledged as security for the Obligations (including by way of negative pledges), or which will be used to pay the Obligations, or which could be reasonably be expected to be available to pay the Obligations if the Borrower were to encounter financial difficulty, other than the Project Fund referenced above. The Borrower will pay the Obligations from its general funds, with there being no obligation (or expectation) on the part of the Borrower or any other entity to segregate or identify any particular funds or accounts for the payment of or security for the Obligations.

MISCELLANEOUS

11. (a) No substantial part of the Equipment will be sold, no arrangement has been or will be entered into with respect to the Equipment that would be treated as a sale for federal income tax purposes, and the Borrower expects to use the Equipment for their currently-intended purpose at least until the stated date for final payment of the Obligations, in all cases other than such insubstantial portions as may be disposed of in the ordinary course of business due to normal wear or obsolescence.

(b) There are no other tax-exempt bonds, notes or obligations of the Borrower which (1) were or will be sold within 15 days of the date the Contract was entered into, (2) were or will be sold pursuant to a plan of financing common with the plan of financing for the Contract, and (3) are reasonably expected to be paid from substantially the same source of funds as the Contract.

(c) None of the Proceeds will be used to make any payment on any other Borrower obligation that was contracted in the exercise of the Borrower’s borrowing power.

(d) No portion of the Obligations is Federally Guaranteed.

(e) The Borrower will cooperate with Lender in preparing, executing, and filing in a timely manner IRS Form 8038 and such other reports and documents as may be required in order for the interest on the Obligations to be excluded from gross income for federal income tax purposes.

REASONABLENESS; BINDING EFFECT

12. To the best of my knowledge and belief, the expectations set forth above are reasonable and the statements set forth above are correct. The Borrower’s covenants made as described in this Certificate are intended as binding covenants of the Borrower.

WITNESS my signature this ____day of October, 2022.

Anna Bungarner, Finance Director
County of Rowan, North Carolina

[Signature Page to Use of Proceeds Certificate]

CLOSING CERTIFICATE

The undersigned officers of the County of Rowan, North Carolina (the “Borrower”) hereby certify as follows:

1. The Borrower’s governing board (the “Board”) adopted the attached resolution (the “Resolution”), authorizing and providing for an installment financing with Truist Bank (“Lender”). The Resolution was duly adopted at a meeting duly called and held at which a quorum was present and acting throughout. The Resolution has not been repealed, revoked, rescinded or amended, but remains in full effect as of today. Pursuant to N.C. Gen. Stat. § 143-318.12(a), a current copy of the Board’s regular meeting schedule was on file with the Clerk for at least seven days prior to the date of the meeting.

2. The signatures set forth below are the true and genuine signatures of the persons holding the indicated offices. The indicated persons have held such offices at all times since the Resolution was adopted.

<u>Printed Name</u>	<u>Title</u>	<u>Signature</u>
Aaron Church	County Manager	_____
Anna Bumgarner	Finance Director	_____
Carolyn Barger	Clerk to the Board	_____

3. The Borrower has duly authorized, executed and delivered the Installment Financing Contract (the “Financing Contract”) provided for by the Resolution. We have reviewed the Borrower’s representations as set forth in the Financing Contract, and all of such representations are correct and complete in all material respects as if made today.

4. The seal impressed below is the Borrower's official seal, and has been the Borrower's official seal since prior to the adoption of the Resolution.

5. Neither (a) the adoption of the Resolution, nor (b) the execution and delivery of the Financing Contract or the consummation of the transactions contemplated by the Financing Contract, nor (c) the fulfillment of or compliance with the terms and conditions of the Financing Contract, constitutes on the Borrower’s part a material breach or violation of any provision of any contract, lease, instrument or other agreement or any judgment, order or decree of any court or other governmental authority to which the Borrower is a party or by which the Borrower is bound. No event or condition has happened or existed, or is happening or existing, which, at this time, constitutes a material default or which, with notice or lapse of time or both, would constitute an event of default under any such contract, lease, instrument or other agreement or any such judgment, order or decree, that would in any event be likely to have a material adverse effect (a) on the Borrower’s financial condition or (b) otherwise on the Borrower’s ability to carry out its obligations under the Financing Contract.

6. There is no litigation or any proceeding before any court or other governmental authority pending or, to the best of our knowledge after reasonable investigation, threatened against the Borrower (or any official thereof in an official capacity) with respect to (a) the Borrower's organization or existence, (b) the Borrower's authority to execute and deliver the Financing Contract, to adopt the Resolution or to comply with the terms thereof, or (c) the title to office of any member of the Board or any other Borrower officer. To the best of our knowledge, there is no litigation pending or threatened against the Borrower or any other person or entity in any manner affecting or pertaining to the execution or delivery of the Financing Contract or the transactions contemplated by the Financing Contract and the Resolution, or that would be likely (if decided adversely to the Borrower) to have a material adverse effect (a) on the Borrower's financial condition or (b) otherwise on the Borrower's ability to carry out its obligations under the Financing Contract.

7. There has been no material adverse change in the Borrower's financial condition since the date of the last annual financial statement of the Borrower provided to Lender.

WITNESS our signatures and the seal of the County of Rowan, North Carolina, this _day of October 2022.

(SEAL)

By: _____
County Manager

By: _____
Finance Director

By: _____
Clerk to the Board

Information Return for Tax-Exempt Governmental Bonds

(Rev. October 2021)

Under Internal Revenue Code section 149(e)

See separate instructions.

OMB No. 1545-0047

Department of the Treasury
Internal Revenue ServiceCaution: If the issue price is under \$100,000, use Form 8038-GC.
Go to www.irs.gov/F8038G for instructions and the latest information.**Part I Reporting Authority**Check box if Amended Return **D**

1 Issuer's name

2 Issuer's employer identification number (EIN)

County of Rowan, North Carolina

56-600033

3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)

3b Telephone number of other person shown on 3a

4 Number and street (or P.O. box if mail is not delivered to street address)

Room/suite

5 Report number (For IRS Use Only)

130 West Innes Street

3C:0

6 City, town, or post office, state, and ZIP code

7 Date of issue

Salisbury, North Carolina

10/27/2022

8 Name of issue

9 CUSIP number

\$1,600,000 Installment Financing Contract

None

10a Name and title of officer or other employee of the issuer whom the IRS may call for more information

10b Telephone number of officer or other employee shown on 10a

Anna Bumgarner, Finance Director

704-216-8170

Part II Type of Issue (Enter the issue price.) See the instructions and attach schedule.

12 Health and hospital

13 Transportation

14 Public safety

15 Environment (including sewage bonds)

16 Housing

17 Utilities

18 Other. Describe

19a If bonds are TANs or RANs, check only box 19a

b If bonds are BANs, check only box 19b

20 If bonds are in the form of a lease or installment sale, check box

11

12

13

14

15

16

17

18

7,998,000

D

D

D

Part III Description of Bonds. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	10/01/2022	\$ 7,998,000	\$ 7,998,000	2.927 years	3.5407 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

used for accrued interest

23 Issue price of entire issue (enter amount from line 21, column (b))

24 Proceeds used for bond issuance costs (including underwriters' discount)

25 Proceeds used for credit enhancement

26 Proceeds allocated to reasonably required reserve or replacement fund

27 Proceeds used to refund prior tax-exempt bonds. Complete Part V.

28 Proceeds used to refund prior taxable bonds. Complete Part V.

29 Total (add lines 24 through 28)

30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)

L ggJ 0

[11] 7,998,000

48,118

0

0

0

0

0

48,118

7,949,882

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

the remaining weighted average maturity of the tax-exempt bonds to be refunded

years

32 Enter the remaining weighted average maturity of the taxable bonds to be refunded

years

33 Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY)

34 Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 63773S

Form 8038-G (Rev. 10-2021)

Part VI Miscellaneous

- the amount of the state volume cap allocated to the issue under section 141(b)(5) **35**
- 36a** Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIG). See instructions **36a**
- b** Enter the final maturity date of the GIC (MM/DD/YYYY) _____
- c** Enter the name of the GIC provider _____
- 37** Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units .
- 38a** If this issue is a loan made from the proceeds of another tax-exempt issue, check box ☒ **D** and enter the following information:
- b** Enter the date of the master pool bond (MM/DD/YYYY) _____
- c** Enter the EIN of the issuer of the master pool bond _____
- d** Enter the name of the issuer of the master pool bond _____
- 39** If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ☐ **0**
- 40** If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ☐ **D**
- 41a** If the issuer has identified a hedge, check here ☒ **D** and enter the following information:
- b** Name of hedge provider _____
- c** Type of hedge _____
- d** Term of hedge _____
- 42** If the issuer has superintegrated the hedge, check box ☐ **D**
- 43** If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ☐
- 44** If the issuer has established written procedures to monitor the requirements of section 148, check box ☐
- 45a** If some portion of the proceeds was used to reimburse expenditures, check here ☒ **D** and enter the amount of reimbursement .
- b** Enter the date the official intent was adopted (MM/DD/YYYY) _____

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

Signature of issuer's authorized representative _____ Date _____ Type or print name and title Anna Bumgarner, Finance Director

Paid Preparer Use Only

Print/Type preparer's name Mary Nash Rusher	Preparer's signature _____	jDate 	Check <input type="radio"/> if self-employed	PTIN
Firm's name McGuireWoods LLP	Firm's EIN 56-0505857			
Firm's address P.O. Box 27507 Raleigh NC 27611	Phone no. 919 755-6694			

INSTALLMENT FINANCING CONTRACT

THIS INSTALLMENT FINANCING CONTRACT (this “Contract”) is dated October 27, 2022, and is between the **COUNTY OF ROWAN, NORTH CAROLINA**, a political subdivision duly organized and validly existing under the State of North Carolina (the “Borrower”), and **TRUIST BANK** (“Lender”).

RECITALS:

The Borrower has the power, pursuant to Section 160A-20 of the North Carolina General Statutes, to enter into installment contracts to finance or refinance the purchase of personal property, or the repair of fixtures or improvements on real property, and to secure its obligations under such contracts by security interests in all or a portion of the property purchased or improved. This Contract provides for Lender to advance \$7,998,000 to the Borrower to enable the Borrower to acquire the Equipment (as defined below), and provides for securing the Borrower’s obligations under this Contract by creating certain security interests in favor of Lender.

This Contract secures current advances of \$7,998,000. The current scheduled date for final repayment is on October 1, 2027.

NOW THEREFORE, for and in consideration of the mutual promises in this Contract, and other good and valuable consideration, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS; INTERPRETATION

Unless the context clearly requires otherwise, capitalized terms used in this Contract and not otherwise defined shall have the following meanings:

“Additional Payments” means any of Lender’s reasonable and customary fees and expenses related to the transactions contemplated by this Contract, any of Lender’s expenses (including attorneys’ fees) in prosecuting or defending any action or proceeding in connection with this Contract, any required license or permit fees, state and local sales and use or ownership taxes or property taxes which Lender is required to pay as a result of this Contract, inspection and re-inspection fees, and any other amounts payable by the Borrower (or paid by Lender on the Borrower’s behalf) as a result of its covenants under this Contract (together with interest that may accrue on any of the above if the Borrower shall fail to pay the same, as set forth in this Contract).

“Amount Advanced” has the meaning assigned in Section 2.02.

“Bond Counsel Opinion” means a written opinion (in form and substance acceptable to Lender) of an attorney or firm of attorneys acceptable to Lender.

“Borrower” means the the County of Rowan, North Carolina, a political subdivision duly

organized and validly existing under the State.

“Borrower Representative” means the Borrower’s finance director, investment officer or such other person or persons at the time designated, by a written certificate in the form of Exhibit D attached hereto furnished to Lender and signed on the Borrower’s behalf by an authorized representative of the Borrower, to act on the Borrower’s behalf for any purpose (or any specified purpose) under this Contract.

“Budget Officer” means the Borrower officer from time to time charged with preparing the Borrower’s draft budget as initially submitted to the Governing Board for its consideration.

“Business Day” means any day on which banks in the State are not by law authorized or required to remain closed.

“Closing Date” means the date on which this Contract is first executed and delivered by the parties.

“Code” means the Internal Revenue Code of 1986, as amended, including regulations, rulings and revenue procedures promulgated thereunder or under the Internal Revenue Code of 1954, as amended, as applicable to the Borrower’s obligations under this Contract and all proposed (including temporary) regulations which, if adopted in the form proposed, would apply to such obligations. Reference to any specific Code provision shall be deemed to include any successor provisions thereto.

“Equipment” has the meaning assigned in Section 2.03, and is generally expected to include the personal property described in Exhibit A.

“Event of Default” means one or more events of default as defined in Section 7.01.

“Event of Nonappropriation” means any failure by the Governing Board to adopt, by the first day of any Fiscal Year, a budget for the Borrower that includes an appropriation for Required Payments, or the Governing Board’s amendment of the annual budget to remove an appropriation for Required Payments, in each case as contemplated by Section 3.05.

“Fiscal Year” means the Borrower’s fiscal year beginning July 1, or such other fiscal year as the Borrower may later lawfully establish.

“Governing Board” means the Borrower’s governing board as from time to time constituted.

“Installment Payments” means the payments payable by the Borrower pursuant to Section 3.01.

“LGC” means the North Carolina Local Government Commission.

“Net Proceeds,” when used with respect to any amounts derived from claims made on account of insurance coverages required under this Contract, any condemnation award arising out of the condemnation of all or any portion of the Equipment, or any amounts received in lieu or in

settlement of any of the foregoing, means the amount remaining after deducting from the gross proceeds thereof all expenses (including attorneys' fees and costs) incurred in the collection of such proceeds, and after reimbursement to the Borrower or Lender for amounts previously expended to remedy the event giving rise to such payment or proceeds.

"Payment Dates" means the dates indicated in Exhibit B.

"Prime Rate" means the interest rate so denominated and set by Lender (whether or not such bank, or any affiliate thereof, is at any time the counterparty to this Contract) as its "Prime Rate," as in effect from time to time.

"Project Costs" means all costs of the design, planning, acquiring and installing the Equipment as determined in accordance with generally accepted accounting principles and that will not adversely affect the exclusion from gross income for federal income tax purposes of the designated interest component of Installment Payments payable by the Borrower under this Contract, including (a) sums required to reimburse the Borrower or its agents for advances for any such costs, (b) interest during the period of the acquisition and installation of the Equipment and for up to six months thereafter, and (c) all costs related to the financing of the Equipment through this Contract and all related transactions.

"Project Fund" has the meaning assigned in Section 2.02.

"Required Payments" means Installment Payments and Additional Payments.

"Section 160A-20" means Section 160A-20 of the North Carolina General Statutes, as amended, or any successor provision of law.

"Security Property" means the Equipment and all amounts on deposit from time to time in the Project Fund.

"State" means the State of North Carolina.

"UCC" means the Uniform Commercial Code or any successor law as in effect from time to time in the State, currently Chapter 25 of the North Carolina General Statutes.

All references in this Contract to designated "Sections" and other subdivisions are to the designated sections and other subdivisions of this Contract. The words "hereof" and "hereunder" and other words of similar import refer to this Contract as a whole and not to any particular Section or other subdivision unless the context indicates otherwise. Words importing the singular number shall include the plural number and vice versa.

ARTICLE II

SECURITY PROVIDED BY THIS CONTRACT; ADVANCE

2.01. Security for Payment and Performance. This Contract secures the Borrower's payment, as and when the same shall become due and payable, of all Required Payments and the Borrower's timely compliance with all terms, covenants and conditions of this Contract.

2.02. Advance. Lender shall advance \$7,998,000 (the "Amount Advanced") to the Borrower by making a deposit of such amount on the Closing Date to a Project Fund (the "Project Fund") as provided in Article IV herein, and the Borrower hereby accepts the Amount Advanced from Lender.

2.03. UCC Security Agreement.

(a) This Contract is intended as and constitutes a security agreement pursuant to the UCC with respect to the following:

- (i) all moneys on deposit from time to time in the Project Fund; and
- (ii) all property acquired by the Borrower with funds advanced by Lender pursuant to this Contract, all personal property obtained in substitution or replacement therefor, and all personal property obtained in substitution or replacement for any portion of the Security Property, and all proceeds of the foregoing (collectively, the "Equipment").

To secure the Required Payments, the Borrower hereby grants to Lender a security interest in the Equipment and in the moneys on deposit from time to time in the Project Fund.

(b) The Borrower shall allow Lender to deliver and file, or cause to be filed, in such place or places as may be required by law, financing statements (including any continuation statements required by the UCC or determined by Lender) in such form as Lender may reasonably require to perfect and continue the security interest in the Equipment and in the moneys on deposit from time to time in the Project Fund.

2.04. Borrower's Limited Obligation. (a) THE PARTIES INTEND THAT THIS TRANSACTION COMPLY WITH SECTION 160A-20. NO PROVISION OF THIS CONTRACT SHALL BE CONSTRUED OR INTERPRETED AS CREATING A PLEDGE OF THE BORROWER'S FAITH AND CREDIT WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION. NO PROVISION OF THIS CONTRACT SHALL BE CONSTRUED OR INTERPRETED AS A DELEGATION OF GOVERNMENTAL POWERS OR AS AN IMPROPER DONATION OR A LENDING OF THE BORROWER'S CREDIT WITHIN THE MEANING OF THE STATE CONSTITUTION. NO DEFICIENCY JUDGMENT MAY BE RENDERED AGAINST THE BORROWER IN VIOLATION OF SECTION 160A-20. No provision of this Contract shall be construed to pledge or to create a lien on any class or source of the Borrower's moneys (other than the funds held under this Contract), nor shall any provision of this Contract restrict

the future issuance of any of the Borrower's bonds or obligations payable from any class or source of the Borrower's moneys (except to the extent this Contract restricts the incurrence of additional obligations secured by the Security Property). In the event of any conflict between this Section or Section 160A-20 and any other provision of this Contract, this Section and Section 160A-20 take precedence over any other provisions of this Contract.

(b) Nothing in this Section is intended to impair or prohibit execution on the Security Property if the Required Payments are not paid when due or otherwise upon the occurrence of an Event of Default under this Contract.

2.05. Borrower's Continuing Obligations. The Borrower shall remain liable for full performance of all its covenants under this Contract (subject to the limitations described in Section 2.04), including payment of all Required Payments, notwithstanding the occurrence of any event or circumstances whatsoever, including any of the following:

- (a) Lender's waiver of any right granted or remedy available to it;
- (b) The forbearance or extension of time for payment or performance of any obligation under this Contract, whether granted to the Borrower, a subsequent owner of the Equipment or any other person;
- (c) The release of all or part of the Security Property or the release of any party who assumes all or any part of such performance;
- (d) Any act or omission by Lender (but this provision does not relieve Lender of any of its obligations under this Contract);
- (e) The sale of all or any part of the Equipment; or
- (f) Another party's assumption of the Borrower's obligations under this Contract.

ARTICLE III

BORROWER'S PAYMENT OBLIGATION AND RELATED MATTERS

3.01. Installment Payments. The Borrower shall repay the Amount Advanced by making Installment Payments to Lender in lawful money of the United States at the times and in the amounts set forth in Exhibit B, except as otherwise provided in this Contract. As indicated in Exhibit B, the Installment Payments reflect the repayment of the Amount Advanced and include designated interest components.

3.02. Additional Payments. The Borrower shall pay all Additional Payments on a timely basis directly to the person or entity to which such Additional Payments are owed in lawful money of the United States, subject to Section 2.04.

3.03. Prepayment. The Borrower may prepay the outstanding principal component of the

Amount Advanced, at its option on any date, in whole but not in part, by paying (a) all Additional Payments then due and payable, (b) all interest accrued and unpaid to the prepayment date, and (c) 100% of the outstanding principal amount.

3.04. Late Payments. If the Borrower fails to pay any Installment Payment when due, the Borrower shall pay additional interest on the principal component of the late Installment Payment (as permitted by law) at an annual rate equal to the Prime Rate from the original due date.

3.05. Appropriations. (a) The Budget Officer shall include in the initial proposal for each of the Borrower's annual budgets the amount of all Installment Payments and estimated Additional Payments coming due during the Fiscal Year to which such budget applies. Notwithstanding that the Budget Officer includes such an appropriation for Required Payments in a proposed budget, the Governing Board may determine not to include such an appropriation in the Borrower's final budget for such Fiscal Year.

(b) The Budget Officer shall deliver notification to Lender within 15 days after the adoption of the annual budget if an amount equal to the Installment Payments and estimated Additional Payments coming due during the next Fiscal Year has not been appropriated by the Borrower in such budget for such purposes. If such amount has not been so appropriated, the Budget Officer shall send a copy of such notification to the LGC, to the attention of its Secretary, at 3200 Atlantic Avenue, Raleigh, NC 27604.

(c) The actions required of the Borrower and its officers and/or officials pursuant to this Section shall be deemed to be and shall be construed to be in fulfillment of ministerial duties, and it shall be the duty of each and every Borrower official to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Borrower to carry out and perform the actions required pursuant to this Section and the remainder of this Contract to be carried out and performed by the Borrower.

(d) The Borrower reasonably believes that it can obtain funds sufficient to pay all Required Payments when due.

3.06. No Abatement. There shall be no abatement or reduction of the Required Payments for any reason, including, but not limited to, any defense, recoupment, setoff, counterclaim, or any claim (real or imaginary) arising out of or related to the Equipment, except as expressly provided in this Contract. The Borrower assumes and shall bear the entire risk of loss and damage to the Equipment from any cause whatsoever. The Installment Payments shall be made in all events unless the Borrower's obligation to make Installment Payments is terminated as otherwise provided in this Contract.

3.07. Interest Rate and Payment Adjustment. (a) "Rate Adjustment Event" means (i) any action by the Internal Revenue Service (including the delivery of a deficiency notice) or any other federal court or administrative body determining, or (ii) receipt by Lender of an opinion of nationally recognized bond counsel to the effect, (A) that the interest component of Installment Payments, or any portion thereof, is includable in any beneficiary's gross income for federal income tax purposes or (B) that the Borrower's obligations under this Contract are not "qualified tax-exempt obligations" within the meaning of Code Section 265 (a "265 Event").

(b) Upon any Rate Adjustment Event, (i) the unpaid principal portion of the Amount Advanced shall continue to be payable on dates and in amounts as set forth in Exhibit B, but (ii) the interest components of the Installment Payments shall be recalculated, at an interest rate equal to an annualized interest rate equal to the Prime Rate plus 2% (200 basis points), to the date (retroactively, if need be) determined pursuant to the Rate Adjustment Event to be the date interest became includable in any beneficiary's gross income for federal income tax purposes (or in the case of a 265 Event, retroactively to the Closing Date).

(c) The Borrower shall pay interest at such adjusted rate (subject to credit for interest previously paid) to each affected beneficiary, notwithstanding the fact that any particular beneficiary may not necessarily be a beneficiary to this Contract on the date of a Rate Adjustment Event. The Borrower shall additionally pay to all affected counterparties any interest, penalties or other charges assessed against or payable by such beneficiary and attributable to a Rate Adjustment Event notwithstanding the prior repayment of the entire Amount Advanced or any transfer to another beneficiary.

ARTICLE IV

PROJECT FUND

4.01. Project Fund. Pursuant to Section 2.02, on the Closing Date, Lender shall deposit \$7,998,000 into the Project Fund, which shall be a special account of the Borrower at Truist Bank to be designated "2022 Project Fund". The Project Fund shall be held separate and apart from all other funds or accounts of the Borrower. The Project Fund is the Borrower's property, but the Borrower may withdraw amounts on deposit in the Project Fund only as provided herein and only for application from time to time to the payment of Project Costs or otherwise as permitted by Section 4.03 hereof. Pending such application, such amounts shall be subject to a lien and charge in favor of Lender to secure the Borrower's obligations hereunder.

4.02. Requisitions from Project Fund. The Borrower may withdraw funds from the Project Fund only after authorization from Lender. Lender shall authorize the disbursement of funds from the Project Fund only to the Borrower and only upon its receipt of one or more written requisitions in the form set forth in Exhibit C attached hereto signed by one of the designated Borrower Representatives. The Borrower shall submit its signed requisitions in pdf format by electronic transmission at the email address contained in the requisition form.

Upon receipt of a requisition from the Borrower, Lender shall undertake such review of the matters referred to in such requisition as it shall deem appropriate, and within seven (7) Business Days after such receipt shall notify the Borrower if it does not approve the requisition with the reasons for its disapproval. Lender has no obligation to make a review and any review by Lender is only for Lender's benefit. Lender shall not unreasonably withhold payment of any requisition.

4.03. Disposition of Project Fund Balance. (a) Promptly after the acquisition of the Equipment, and when the Borrower has withdrawn from the Project Fund all of the funds needed to acquire the Equipment, the Borrower shall deliver to Lender a written certificate of completion executed by a Borrower Representative stating that (i) the Equipment has been acquired, (ii) there

are no mechanic's or other liens against the Equipment for labor or materials furnished in connection with the acquisition of the Equipment, and (iii) no further funds will be requisitioned from the Project Fund to pay Project Costs. Lender may then withdraw any balance remaining in the Project Fund (and not required to be retained to pay Project Costs incurred but not yet paid) and apply such amount as provided in subsection (d) of this Section.

(b) Upon the occurrence of an Event of Default, Lender may withdraw any balance remaining in the Project Fund and apply such amount as provided in subsection (d) of this Section.

(c) If (i) more than three years have elapsed from the Closing Date or (ii) at least six months have elapsed from Lender's most recent receipt of a requisition for Project Costs, then Lender, upon 30 days' notice from Lender to the Borrower, may withdraw any balance remaining in the Project Fund and apply such amount as provided in subsection (d) of this Section.

(d) Lender may apply any amounts withdrawn from the Project Fund pursuant to this Section in the following order: (i) to the payment of any Additional Payments then due to Lender under this Contract, (ii) to the payment of any interest accrued to the Project Fund disposition date that is then due and payable, (iii) to the payment of any principal amount then due and payable, (iv) to the prepayment of principal and accrued interest in accordance with the prepayment provisions of this Contract, and (v) to the payment of future Installment Payments in inverse order of maturity; provided, however, that (1) at the option of Lender, Lender may deliver funds held in the Project Fund to the Borrower to be applied to additional Project Costs or future debt service payments, and (2) in no event will Lender apply any funds in the manner set forth herein if it is advised in an opinion of bond counsel provided by the Borrower that such a use of funds could adversely affect the exclusion from gross income for federal income tax purposes of the interest component of Installment Payments. Any prepayment pursuant to this Section shall not affect any other Borrower payment obligation hereunder. Lender shall notify the Borrower of any withdrawal from the Project Fund made under this Section, and in the notice shall describe its application of the funds so withdrawn.

4.04. Investment. (a) The Borrower and Lender agree that money in the Project Fund will be continuously invested and reinvested in a public funds money rate savings account, as directed by Lender, that meets the requirements of Section 159-30 of the General Statutes of North Carolina, as amended.

(b) From and after the date that is three years from the Closing Date, the Borrower and Lender agree that money in the Project Fund will not be invested at a "yield," as determined under the Code, in excess of the "yield" on the Borrower's obligations under this Contract, unless the Borrower has supplied Lender with an opinion of bond counsel to the effect that such investment will not adversely affect the exclusion from gross income for federal income tax purposes to which the interest components of Installment Payments would otherwise be entitled.

(c) Investment obligations acquired with money in the Project Fund shall be deemed at all times to be part of the Project Fund. The interest accruing thereon and any profit or loss realized upon the disposition or maturity of any such investment shall be credited to or charged against the Project Fund.

(d) All earnings on moneys in the Project Fund shall be used for Project Costs or otherwise

applied in accordance with Section 4.03 hereof.

ARTICLE V

BORROWER'S COVENANTS, REPRESENTATIONS AND WARRANTIES

5.01. Indemnification. To the extent permitted by law, the Borrower shall indemnify, protect and save Lender and its officers and directors, and the LGC's members and employees, harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses, including attorneys' fees, arising out of, connected with, or resulting directly or indirectly from the Security Property or the transactions contemplated by this Contract, including without limitation the possession, condition or use of the Equipment. The indemnification arising under this Section shall survive this Contract's termination.

5.02. Covenant as to Tax Exemption. (a) The Borrower covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income for federal income taxation purposes of the interest portion of the obligation created by this Contract under Section 103 of the Code. In particular, the Borrower covenants that it will not directly or indirectly use or permit the use of any proceeds of any fund created under this Contract, any funds of the Borrower or any property financed or refinanced with funds provided to the Borrower under this Contract, or otherwise take or omit to take any action, that would cause the obligation created by this Contract to be an "arbitrage bond" within the meaning of Section 148(a) of the Code or a "private activity bond" under Section 141 of the Code. The Borrower will maintain books on which will be recorded (i) Lender or (ii) any assignee of the Installment Payments due under this Contract, as the registered owner of such Installment Payments. To that end, the Borrower has executed the Use of Proceeds Certificate dated the date hereof (the "Use of Proceeds Certificate"), and will comply with all requirements of Section 141 and Section 148 of the Code to the extent applicable.

(b) The Borrower hereby represents and warrants that its representations and warranties in the Use of Proceeds Certificate with respect to its investment and use of funds provided under this Contract, and its use of any property financed or refinanced with funds provided under this Contract, are true, correct and complete.

(c) Without limiting the generality of the foregoing, the Borrower agrees that there shall be paid from time to time all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to the obligation created by this Contract from time to time. This covenant shall survive the termination of this Contract.

(d) Notwithstanding any provision of this Section, if the Borrower shall provide to Lender a Bond Counsel Opinion to the effect that any action required under this Section or the Use of Proceeds Certificate is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on the obligation created by this Contract pursuant to Section 103 of the Code, the Borrower and Lender may rely conclusively on such opinion in complying with the provisions thereof.

(e) To the extent permitted by law, the Borrower hereby designates and authorizes Lender and its employees as its agents and attorneys-in-fact of the Borrower for the purpose of preparing and filing with the IRS a form 8038-G (or other form required under Section 149(e) of the Code) with respect to this Contract.

(f) The Borrower acknowledges that its personnel must be familiar with the arbitrage rebate rules because the tax-exempt status of the interest on the Installment Payments depends upon continuing compliance with such rules. The Borrower therefore covenants to take all reasonable action to assure that Borrower personnel responsible for the investment of and accounting for financing proceeds comply with such rules.

(g) The Borrower represents and covenants that the aggregate face amount of all tax-exempt obligations issued by the Borrower during the current calendar year, including the face amount of this Contract, does not and will not exceed \$10,000,000. The Borrower hereby designates its obligation to make Installment Payments under this Contract as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code.

5.03. Validity of Organization and Acts. The Borrower is validly organized and existing under State law, has full power to enter into this Contract and has duly authorized and has obtained all required approvals and all other necessary acts required prior to the execution and delivery of this Contract. This Contract is a valid, legal and binding obligation of the Borrower.

5.04. Maintenance of Existence. The Borrower shall maintain its existence, shall continue to be a local governmental unit of the State, validly organized and existing under State law, and shall not consolidate with or merge into another local governmental unit of the State, or permit one or more other local governmental units of the State to consolidate with or merge into it, unless the local governmental unit thereby resulting assumes the Borrower’s obligations under this Contract.

5.05. Acquisition of Permits and Approvals. All permits, consents, approvals or authorizations of all governmental entities and regulatory bodies, and all filings and notices required on the Borrower’s part to have been obtained or completed as of today in connection with the authorization, execution and delivery of this Contract, the consummation of the transactions contemplated by this Contract and the acquisition of the Equipment have been obtained and are in full force and effect, and there is no reason why any future required permits, consents, approvals, authorizations or orders cannot be obtained as needed.

5.06. No Breach of Law or Contract. Neither the execution and delivery of this Contract nor the consummation of the transactions contemplated by this Contract, nor the fulfillment of or compliance with the terms and conditions of this Contract, (a) to the best of the Borrower’s knowledge, constitutes a violation of any provision of law governing the Borrower or (b) results in a breach of the terms, conditions or provisions of any contract, agreement or instrument or order, rule or regulation to which the Borrower is a party or by which the Borrower is bound.

5.07. No Litigation. There is no litigation or any governmental administrative proceeding to which the Borrower (or any official thereof in an official capacity) is a party that is pending or, to the best of the Borrower’s knowledge after reasonable investigation, threatened with respect to (a) the

Borrower's organization or existence, (b) its authority to execute and deliver this Contract or to comply with the terms of this Contract, (c) the validity or enforceability of this Contract or the transactions contemplated by this Contract, (d) the title to office of any Governing Board member or any other Borrower officer, (e) any authority or proceedings relating to the Borrower's execution or delivery of this Contract, or (f) the undertaking of the transactions contemplated by this Contract.

5.08. No Current Default or Violation. (a) The Borrower is not in violation of any existing law, rule or regulation applicable to it, (b) the Borrower is not in default under any contract, other agreement, order, judgment, decree or other instrument or restriction of any kind to which the Borrower is a party or by which it is bound or to which any of its assets are subject, including this Contract, and (c) no event or condition has happened or existed, or is happening or existing, under the provisions of any such instrument, including this Contract, which constitutes or which, with notice or lapse of time, or both, would constitute an event of default hereunder or thereunder.

5.09. No Misrepresentation. No representation, covenant or warranty by the Borrower in this Contract is false or misleading in any material respect.

5.10. Environmental Warranties and Indemnification. (a) The Borrower warrants and represents to Lender that, to the best of the Borrower's knowledge after thorough investigation, the Equipment is not now and has not ever been used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials (as defined herein).

(b) The Borrower covenants that the Equipment shall be kept free of Hazardous Materials and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in connection with the normal maintenance and operation of the Equipment, and the Borrower shall not cause or permit, as a result of any intentional or unintentional act or omission on the part of the Borrower or any lessee, the release of Hazardous Materials onto the Equipment or suffer the presence of Hazardous Materials on the Equipment, except in connection with the normal maintenance and operation of the Equipment.

(c) The Borrower shall comply with, and ensure compliance by all users and lessees with, all applicable federal, State and local laws, ordinances, rules and regulations with respect to Hazardous Materials and shall keep the Equipment free and clear of any liens imposed pursuant to such laws, ordinances, rules and regulations. If the Borrower receives any notices from any governmental agency or any lessee with regard to Hazardous Materials on, from or affecting the Equipment, the Borrower shall immediately notify Lender. The Borrower shall conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Equipment in accordance with all applicable federal, State and local laws, ordinances, rules, regulations and policies and to Lender's satisfaction.

(d) "Hazardous Materials" means any explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos or any materials containing asbestos, or any other substance or material as defined by any federal, State or local environmental law, ordinance, rule or regulation including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended

(42 U.S.C. sections 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. sections 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. sections 9601 et seq.), and the regulations adopted and publications promulgated pursuant thereto.

(e) To the extent permitted by law, the Borrower shall indemnify and hold Lender harmless from and against (i) any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean-up costs), judgments and expenses (including attorneys', consultants' or experts' fees and expenses) of every kind and nature suffered by or asserted against Lender as a direct or indirect result of any warranty or representation made by the Borrower in subsections (a) through (c) of this Section being false or untrue in any material respect, or (ii) any requirement under any law, regulation or ordinance, local, State or federal, which requires the elimination or removal of any hazardous materials, substances, wastes or other environmentally regulated substances by Lender or the Borrower or any transferee or assignee Lender or the Borrower.

(f) The Borrower's obligations under this Section shall continue in full force and effect notwithstanding full payment of the Required Payments or execution on the security interests created under this Contract.

5.11. Further Instruments. Upon Lender's request, the Borrower shall execute, acknowledge and deliver such further instruments reasonably necessary or desired by Lender to carry out more effectively the purposes of this Contract or any other document related to the transactions contemplated by this Contract, and to subject to the liens and security interests hereof and thereof all or any part of the Security Property intended to be given or conveyed hereunder or thereunder, whether now given or conveyed or acquired and conveyed subsequent to the date of this Contract.

5.12. Lender's Advances for Performance of Borrower's Obligations. If the Borrower fails to perform any of its obligations under this Contract, Lender is hereby authorized, but not obligated, to perform such obligation or cause it to be performed. All expenditures incurred by Lender (including any advancement of funds for payment of taxes, insurance premiums or other costs of maintaining the Security Property, and any associated legal or other expenses), together with interest thereon at the Prime Rate, shall be secured as Additional Payments under this Contract. The Borrower promises to pay all such amounts to Lender immediately upon demand, subject to the limitations of Section 2.04.

5.13. Equipment Will Be Used and Useful. The acquisition of the Equipment is necessary and expedient for the Borrower, and will perform essential functions of the Borrower appropriate for units of local government. The Borrower has an immediate need for, and expects to make immediate use of, all of the Equipment, and does not expect such need or use to diminish in any material respect during the term of this Contract. The Equipment will not be used in any private business or put to any private business use.

5.14. Financial Information. (a) The Borrower shall send to Lender a copy of the Borrower's audited financial statements for each Fiscal Year within 30 days of the Borrower's acceptance of such statements, but in any event within 270 days of the completion of such Fiscal Year.

(b) The Borrower shall furnish Lender, at such reasonable times as Lender shall request, all other financial information (including, without limitation, the Borrower's annual budget as submitted or approved) as Lender may reasonably request. The Borrower shall permit Lender or its agents and representatives to inspect the Borrower's books and records and make extracts therefrom.

5.15. Taxes and Other Governmental Charges. The Borrower shall pay, as Additional Payments, the full amount of all taxes, assessments and other governmental charges lawfully made by any governmental body during the term of this Contract. With respect to special assessments or other governmental charges which may be lawfully paid in installments over a period of years, the Borrower shall be obligated to provide for Additional Payments only for such installments as are required to be paid during the term of this Contract. The Borrower shall not allow any liens for taxes, assessments or governmental charges with respect to the Equipment or any portion thereof to become delinquent (including, without limitation, any taxes levied upon the Equipment or any portion thereof which, if not paid, will become a charge on any interest in the Equipment, including Lender's interest, or the rentals and revenues derived therefrom or hereunder).

5.16. Borrower's Insurance. (a) The Borrower shall, at its own expense, acquire, carry and maintain broad-form extended coverage property damage insurance with respect to all Equipment in an amount equal to the actual cash value of the Equipment. Such property damage insurance shall include Lender as loss payee. Any Net Proceeds of the insurance required by this subsection (a) shall be payable as provided in Section 6.15.

(b) The Borrower shall, at its own expense, acquire, carry and maintain comprehensive general liability insurance (and auto liability insurance, if applicable) in accordance with State statute or as customarily held by similar entities in the State.

(c) The Borrower shall also maintain workers' compensation insurance issued by a responsible carrier authorized under State law to insure the Borrower against liability for compensation under applicable State law as in effect from time to time.

(d) All insurance shall be maintained with generally recognized responsible insurers in accordance with State law and may carry reasonable deductible or risk-retention amounts.

(e) Lender shall not be responsible for the sufficiency or adequacy of any required insurance and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by Lender.

(f) Upon request by Lender, the Borrower shall deliver to Lender a certificate stating that the risk coverages required by this Contract are in effect, and stating the carriers, policy numbers, coverage limits and deductible or risk-retention amounts for all such coverages.

ARTICLE VI

THE EQUIPMENT

6.01. Acquisition and Installation. The Borrower shall comply with the provisions of

Article 8 of Chapter 143 of the North Carolina General Statutes, as applicable, accept all portions of the Equipment when properly delivered, provide for the proper installation thereof, as applicable, and thereafter promptly place each such portion in service.

6.02. Reserved.

6.03. Acquisition and Installation within Funds Available. The Borrower represents that, based upon its examination of the quotes it has received for the Equipment, estimated installation costs and the Equipment's anticipated configuration, the Equipment can be acquired and installed for a total price within the total amount of funds to be available therefor in the Project Fund, income anticipated to be derived from the investment thereof and other funds previously identified and designated for such purposes. If the total amount available for such purposes in the Project Fund shall be insufficient to pay the entire cost of acquiring and installing the Equipment, the Borrower promises to pay any such excess costs, with no resulting reduction or offset in the amounts otherwise payable by the Borrower under this Contract.

6.04. Disclaimer of Warranties. The Borrower agrees that Lender has not designed the Equipment, that Lender has not supplied any plans or specifications with respect thereto and that Lender (a) is not a manufacturer of, nor a dealer in, any of the component parts of the Equipment or similar equipment, (b) has not made any recommendation, given any advice nor taken any other action with respect to (i) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Equipment or any component part thereof or any property or rights relating thereto, or (ii) any action taken or to be taken with respect to the Equipment or any component part thereof or any property or rights relating thereto at any stage of the acquisition and installation thereof, (c) has not at any time had physical possession of the Equipment or any component part thereof or made any inspection thereof or of any property or rights relating thereto, and (d) has not made any warranty or other representation, express or implied, that the Equipment or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the results which the Borrower intends therefor, or (iii) is safe in any manner or respect.

LENDER MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE EQUIPMENT OR ANY COMPONENT PART THEREOF, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY THEREOF FOR ANY PURPOSE, and further including the design or condition thereof; the safety, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Equipment's ability to perform any function; that the Amount Advanced will be sufficient to pay all costs of the acquisition and installation (as applicable) of the Equipment; or any other characteristic of the Equipment; it being agreed that the Borrower is to bear all risks relating to the Equipment, the installation thereof and the transactions contemplated by this Contract, and the Borrower hereby waives the benefits of any and all implied warranties and representations of Lender.

The provisions of this Section shall survive this Contract's termination.

6.05. Right of Entry and Inspection. Lender and its representatives and agents shall have

the right to enter upon the Borrower's property and inspect the Equipment from time to time following the acquisition and installation (as applicable) thereof, and the Borrower shall cause any vendor, contractor or sub-contractor to cooperate with Lender and its representatives and agents during such inspections.

No right of inspection or approval granted in this Section shall be deemed to impose upon Lender any duty or obligation whatsoever to undertake any inspection or to make any approval. No inspection made or approval given by Lender shall be deemed to impose upon Lender any duty or obligation whatsoever to identify or correct any defects in the Equipment or to notify any person with respect thereto, and no liability shall be imposed upon Lender, and no warranties (either express or implied) are made by Lender as to the quality or fitness of any improvement, any such inspection and approval being made solely for Lender's benefit.

6.06. Compliance with Requirements. (a) The Borrower shall cause the Equipment to be used and, if applicable, installed in a careful manner and in compliance with all applicable legal requirements.

(b) The Borrower shall observe and comply promptly with all current and future requirements relating to the Equipment's use or condition imposed by (i) any judicial, governmental or regulatory body having jurisdiction over the Equipment or any portion thereof or (ii) any insurance company writing a policy covering the Equipment or any portion thereof, whether or not any such requirement shall necessitate structural changes or improvements or interfere with the use or enjoyment of the Equipment.

(c) The Borrower shall obtain and maintain in effect all licenses and permits required for the Equipment's operation.

(d) The Borrower shall in no event use the Equipment or any part thereof, nor allow the same to be used, for any unlawful purpose, or suffer any act to be done or any condition to exist with respect to the Equipment or any part thereof, nor any article to be brought thereon, which may be dangerous, unless safeguarded as required by law, or which may, in law, constitute a nuisance, public or private, or which may make void or voidable any insurance then in force with respect thereto.

6.07. Use and Operation. The Borrower shall use and operate the Equipment and related property for its reasonably intended use and purpose, and for no other purpose unless required by law. The Borrower shall be solely responsible for the Equipment's operation, and shall not contract with any other person or entity for the Equipment's operation.

6.08. Maintenance and Repairs; Additions. (a) The Borrower shall keep the Equipment in good order and repair (reasonable wear and tear excepted) and in good operating condition, shall not commit or permit any waste or any other thing to occur whereby the value or usefulness of the Equipment might be impaired, and shall make from time to time all necessary or appropriate repairs, replacements and renewals.

(b) The Borrower may, also at its own expense, make from time to time any additions, modifications or improvements to the Equipment that it may deem desirable for its governmental or proprietary purposes and that do not materially impair the effective use, nor materially decrease the

value or substantially alter the intended use, of the Equipment. The Borrower shall do, or cause to be done, all such things as may be required by law in order fully to protect the security of and all Lender's rights under this Contract.

(c) Any and all additions to or replacements of the Equipment and all parts thereof shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Contract and included in the "Equipment" for the purposes of this Contract.

(d) Notwithstanding the provisions of subsection (c) of this Section, however, the Borrower may, from time to time in its sole discretion and at its own expense, install machinery, equipment and other tangible property in or on the Equipment. All such property shall remain the Borrower's sole property in which Lender shall have no interest; provided, however, that any such property which becomes permanently affixed to the Equipment shall be subject to the lien and security interest arising under this Contract if Lender shall reasonably determine that the Equipment would be damaged or impaired by the removal of such machinery, equipment or other tangible property.

6.09. Security. The Borrower shall take all reasonable steps necessary to safeguard the Equipment against theft. The security afforded the Equipment shall at all times be equal to or better than the security afforded the Borrower's personal property that is not subject to this Contract.

6.10. Utilities. The Borrower shall pay all charges for utility services furnished to or used on or in connection with the Equipment.

6.11. Risk of Loss. The Borrower shall bear all risk of loss to and condemnation of the Equipment.

6.12. Condemnation. The Borrower shall immediately notify Lender if any governmental authority shall institute, or shall notify the Borrower of any intent to institute, any action or proceeding for the taking of, or damages to, all or any part of the Equipment or any interest therein under the power of eminent domain, or if there shall be any damage to the Equipment due to governmental action, but not resulting in a taking of any portion of the Equipment. The Borrower shall file and prosecute its claims for any such awards or payments in good faith and with due diligence and cause the same to be collected and paid over to Lender, and to the extent permitted by law hereby irrevocably authorizes and empowers Lender, in the Borrower's name or otherwise, to collect and receipt for any such award or payment and to file and prosecute such claims. If the Borrower receives any Net Proceeds arising from any such action, the Borrower shall apply such Net Proceeds as provided in Section 6.15.

6.13. Title. Title to the Equipment and any and all additions, repairs, replacements or modifications thereto shall at all times be in the Borrower, subject to the lien of this Contract. Upon the Borrower's payment in full of all Required Payments, Lender, at the Borrower's expense and request, shall cancel this Contract.

6.14. No Encumbrance or Pledge of Equipment. (a) The Borrower shall not directly or indirectly create, incur, assume or suffer to exist any pledge, lien (including mechanics' and materialmen's liens), security interest, charge, encumbrance or other claim in the nature of a lien on or with respect to the Equipment other than the lien of this Contract. The Borrower shall promptly,

at its own expense, take such action as may be duly necessary to discharge any such pledge, lien, security interest, charge, encumbrance or claim not excepted above which it shall have created, incurred or suffered to exist.

(b) The Borrower shall reimburse Lender for any expense incurred by Lender to discharge or remove any such pledge, lien, security interest, encumbrance or claim, with interest thereon at the Prime Rate.

6.15. Damage and Destruction; Use of Net Proceeds. (a) The Borrower shall promptly notify Lender if (i) the Equipment or any portion thereof is stolen or is destroyed or damaged by fire or other casualty, (ii) a material defect in the installation of the Equipment shall become apparent, or (iii) title to or the use of all or any portion of the Equipment shall be lost by reason of a defect in title. Each notice shall describe generally the nature and extent of such damage, destruction or taking.

(b) The Borrower shall apply Net Proceeds (i) to the prompt completion, repair or restoration of the Equipment (and pay any costs in excess of the Net Proceeds, if necessary), or (ii) together with other available funds as may be necessary, to the prepayment of all outstanding Required Payments pursuant to Section 3.03. The Borrower shall promptly report to Lender regarding the use of Net Proceeds.

(c) Any repair, restoration, modification, improvement or replacement paid for in whole or in part out of Net Proceeds shall be the Borrower's property and shall be part of the Equipment.

ARTICLE VII

DEFAULTS AND REMEDIES; EXECUTION

7.01. Events of Default. An "Event of Default" is any of the following:

(a) The Borrower's failing to make any Installment Payment when due.

(b) The occurrence of an Event of Nonappropriation.

(c) The Borrower's breaching or failing to perform or observe any term, condition or covenant of this Contract on its part to be observed or performed, other than as provided in subsections (a) or (b) of this Section, including payment of any Additional Payment, for a period of 15 days after written notice specifying such failure and requesting that it be remedied shall have been given to the Borrower by Lender, unless Lender shall agree in writing to an extension of such time prior to its expiration.

(d) The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law by or against the Borrower as a debtor, or the appointment of a receiver, custodian or similar officer for the Borrower or any of its property, and the failure of such proceedings or appointments to be vacated or fully stayed within 30 days after the institution or occurrence thereof.

(e) Any warranty, representation or statement made by the Borrower in this Contract is

found to be incorrect or misleading in any material respect on the Closing Date (or, if later, on the date made).

(f) Any lien, charge or encumbrance prior to the security interest created under Section 2.03, or affecting the validity of this Contract, is found to exist, or proceedings are instituted against the Borrower to enforce any lien, charge or encumbrance against the Equipment and such lien, charge or encumbrance would be prior to the lien of this Contract.

(g) The Borrower's failing to pay when due any principal of or interest on any of its general obligation debt.

7.02. Remedies on Default. Upon the continuation of any Event of Default, Lender may, without any further demand or notice, exercise any one or more of the following remedies:

(a) Declare the unpaid principal components of the Installment Payments immediately due and payable;

(b) Proceed by appropriate court action to enforce the Borrower's performance of the applicable covenants of this Contract or to recover for the breach thereof;

(c) As provided in Article IV hereof, pay over any balance remaining in the Project Fund to be applied against outstanding Required Payments in any manner Lender may reasonably deem appropriate; and

(d) Avail itself of all available remedies under this Contract, including execution as provided in Section 7.03, and recovery of attorneys' fees and other expenses.

Notwithstanding any other provision of this Contract, the Borrower and Lender intend to comply with Section 160A-20. No deficiency judgment may be entered against the Borrower in violation of Section 160A-20.

7.03. Execution on Personal Property. Upon the continuation of any Event of Default and in addition to all other remedies granted in this Contract, Lender shall have all the rights and remedies of a secured party under the UCC and may proceed to execute upon the Security Property.

7.04. Possession of Equipment. After a foreclosure sale, the Borrower shall immediately lose the right to possess, use and enjoy the Equipment (but may remain in possession of the Equipment as a lessee at will of Lender), and thereupon the Borrower (a) shall pay monthly in advance to Lender a fair and reasonable rental value for the use and possession of the Equipment (in an amount Lender shall determine in its reasonable judgment), and (b) upon Lender's demand, shall deliver possession of the Equipment to Lender or, at Lender's direction, to any purchaser of the Equipment after an execution sale.

In addition, upon the continuation of any Event of Default, Lender, to the extent permitted by law, is hereby authorized to (i) take possession of the Equipment, with or without legal action, (ii) lease the Equipment, (iii) collect all rents and profits therefrom, with or without taking possession of the Equipment, and (iv) after deducting all costs of collection and administration expenses, apply the

net rents and profits first to the payment of necessary maintenance and insurance costs, and then to the Borrower's account and in reduction of the Borrower's corresponding Required Payments in such fashion as Lender shall reasonably deem appropriate. Lender shall be liable to account only for rents and profits it actually receives.

7.05. No Remedy Exclusive; Delay Not Waiver. All remedies under this Contract are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy. If any Event of Default shall occur and thereafter be waived by Lender, such waiver shall be limited to the particular breach so waived and shall not be deemed a waiver of any other breach under this Contract.

7.06. Payment of Costs and Attorney's Fees. If Lender employs an attorney to assist in the enforcement or collection of Required Payments, or if Lender voluntarily or otherwise shall become a party to any suit or legal proceeding (including a proceeding conducted under any state or federal bankruptcy or insolvency statute) to protect the Equipment, to protect the lien of this Contract, to enforce collection of the Required Payments or to enforce compliance by the Borrower with any of the provisions of this Contract, the Borrower agrees to pay reasonable attorneys' fees and all of the costs that may reasonably be incurred (whether or not any suit or proceeding is commenced), and such fees and costs (together with interest at the Prime Rate) shall be secured as Required Payments.

ARTICLE VIII

WIRE TRANSFER REQUIREMENTS

In order to prevent unauthorized or fraudulent wire transfers through cyberfraud and other means, Lender and the Borrower hereby agree to the provisions of this Article VIII.

8.01. Wire Transfer Requirements. In the event a wire transfer is made by Lender to disburse funds as contemplated by this Contract (a "Disbursement"), such wire transfer shall be delivered as directed in a written "Disbursement Authorization" provided to Lender by a representative of the Borrower, subject to the terms and conditions set forth in this Article VIII. For the purposes of this Article, a representative of the Borrower shall include employees and elected and/or appointed officials of the Borrower, the Borrower's legal counsel, the Borrower's financial advisor and the LGC.

8.02. Verification Procedures. Prior to making any Disbursement pursuant to a Disbursement Authorization not delivered to Lender in person by a representative of the Borrower, Lender shall verify such Disbursement Authorization verbally via telephone communication with a representative of the Borrower. The Borrower shall ensure that a representative of the Borrower will provide such verification to Lender. The Borrower shall not disclose, or allow to be disclosed, such Lender verification procedures to any third party unless there is a legitimate business need to make such disclosure or such disclosure is required by law, and the Borrower accepts the risk of such third party knowledge of the security procedures. If the Borrower has reason to believe that a security procedure has been obtained by or disclosed to an unauthorized person or learns of any unauthorized transfer or of any discrepancy in a transfer request, then the Borrower shall notify Lender immediately.

8.03 Payee Identification. The Borrower is solely responsible for accurately identifying the wire transfer information contained in the Disbursement Authorization delivered to Lender by a representative of the Borrower, including but not limited to the bank name and its ABA number, beneficiary's account name and account number and beneficiary's physical address, together with other information requested by Lender (collectively, "Remittance Instructions"). If the Remittance Instructions describe a beneficiary inconsistently by name and account number, the Borrower acknowledges that Lender may make payment on the basis of the account number alone, that Lender is not obligated to detect such errors, and that the Borrower assumes the risk of any loss resulting therefrom.

8.04 Duty to Reconcile Written Confirmation. Upon request from a representative of the Borrower, Lender shall use its best efforts to send a representative of the Borrower written confirmation of the Disbursement in the form of a reference number, beneficiary name and wire amount. A representative of the Borrower shall promptly review and reconcile the written confirmation of the Disbursement sent by Lender, and shall report to Lender in writing, promptly, but in no event later than ten Business Days after the date of such written confirmation, any unauthorized, erroneous, unreceived or improperly executed payment. Lender and the Borrower agree that ten Business Days is a reasonable time for the detection and reporting to Lender of such information. After that time, all items on the written confirmation will be considered correct and the Borrower will be precluded from recovering from Lender if such wire transfer identified in the written confirmation was actually made by Lender. For the avoidance of doubt, any such writings can be provided electronically.

8.05 Unauthorized Payments. Notwithstanding any other provision herein, if a Disbursement has been verified by a representative of the Borrower pursuant to Section 8.02, it shall be binding on the Borrower if Lender acted in good faith in making such Disbursement.

8.06 Recordation. Lender may record any telephone conversation between Lender and a representative of the Borrower in order to reduce the risk of unauthorized or erroneous transfers. Lender may retain such recordings for as long as Lender may deem necessary.

8.07 Indemnification and Hold Harmless. If Lender complies with the provisions of this Article VIII, the Borrower agrees that Lender shall not be responsible for any communication or miscommunication by a representative of the Borrower, and the Borrower further agrees to indemnify, to the extent allowed by law, Lender and hold Lender harmless from and against any and all losses, claims, expenses, suits, costs or damages, demands or liabilities of whatever kind or nature, whether now existing or hereafter relating in any way to a wire transfer made pursuant to this Contract.

8.08 Applicable Law. All wire transfer orders are governed by Article 4A of the UCC, except as any provisions thereof that may be and are modified by the terms hereof. If any part of the applicable wire transfer order involves the use of the Fedwire, the rights and obligations of Lender and the Borrower regarding that wire transfer order are governed by Regulation J of the Federal Reserve Board.

ARTICLE IX

MISCELLANEOUS

9.01. Notices. (a) Any communication required or permitted by this Contract must be in writing.

(b) Any communication under this Contract shall be sufficiently given and deemed given when delivered by hand or on the date shown on a certified mail receipt, or delivery receipt from a national commercial package delivery service, if addressed as follows:

(i) If to the Borrower, to the County of Rowan, North Carolina, 130 W. Innes Street, Salisbury, North Carolina 28144, Attention: Finance Director; or

(ii) If to Lender, to Truist Bank, 5130 Parkway Plaza Boulevard, Charlotte, North Carolina 28217, Attention: Governmental Finance.

(c) Any addressee may designate additional or different addresses for communications by notice given under this Section to each of the others.

9.02. No Assignments by Borrower. The Borrower shall not sell or assign any interest in this Contract.

9.03. Assignments by Lender. Lender may, at any time and from time to time, assign all or any part of its interest in the Security Property or this Contract, including, without limitation, Lender's rights to receive Required Payments. Any assignment made by Lender or any subsequent assignee shall not purport to convey any greater interest or rights than those held by Lender pursuant to this Contract.

The Borrower agrees that this Contract may become part of a pool of obligations at Lender's or its assignee's option. Lender or its assignees may assign or reassign all or any part of this Contract, including the assignment or reassignment of any partial interest through the use of certificates evidencing participation interests in this Contract. Any assignment by Lender may be only to a bank, insurance company, or similar financial institution or any other entity approved by the LGC. Notwithstanding the foregoing, no assignment or reassignment of Lender's interest in the Equipment or this Contract shall be effective unless and until the Borrower shall receive a duplicate original counterpart of the document by which such assignment or reassignment is made disclosing the name and address of each such assignee.

The Borrower further agrees that Lender's interest in this Contract may be assigned in whole or in part upon terms which provide in effect that the assignor or assignee will act as a collection and paying agent for any holders of certificates of participation in this Contract, provided the Borrower receives a copy of such agency contract and such collection and paying agent covenants and agrees to maintain for the full remaining term of this Contract a written record of each assignment and reassignment of such certificates of participation.

The Borrower agrees to execute any document reasonably required in connection with any

assignment. Any assignor must provide notice of any assignment to the Borrower, and the Borrower shall keep a complete and accurate record of all assignments as required by the Code. After the giving of any such notice, the Borrower shall thereafter make all payments in accordance with the notice to the assignee named therein and shall, if so requested, acknowledge such assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective.

9.04. Amendments. No term or provision of this Contract may be amended, modified or waived without the prior written consent of the Borrower and Lender.

9.05. Governing Law. The Borrower and Lender intend that State law shall govern this Contract.

9.06. Liability of Officers and Agents. No officer, agent or employee of the Borrower shall be subject to any personal liability or accountability by reason of the execution of this Contract or any other documents related to the transactions contemplated by this Contract. Such officers or agents shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve an officer, agent or employee of the Borrower from the performance of any official duty provided by law.

9.07. Severability. If any provision of this Contract shall be determined to be unenforceable, that shall not affect any other provision of this Contract.

9.08. Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next preceding Business Day.

9.09. Entire Agreement. This Contract constitutes the Borrower's entire agreement with respect to the general subject matter covered by this Contract.

9.10. Binding Effect. Subject to the specific provisions of this Contract, and in particular Section 9.03, this Contract shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

9.11 E-Verify. Lender understands that "E-Verify" is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. Lender uses E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended. Lender will require that any subcontractor that it uses in connection with the transactions contemplated by this Contract certify to such subcontractor's compliance with E-Verify.

The remainder of this page left blank intentionally; signature page follows.

IN WITNESS WHEREOF, the parties have duly signed, sealed and delivered this Contract by duly authorized officers, all as of the date first above written.

(SEAL)

ATTEST:

**COUNTY OF ROWAN,
NORTH CAROLINA**

By: _____
Carolyn Barger, Clerk to the Board

By: _____
Aaron Church, County Manager

TRUIST BANK

By: _____

Printed Name: _____

Title: _____

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act.

By: _____
Anna Bumgarner, Finance Director

EXHIBIT A – PROJECT AND EQUIPMENT DESCRIPTION

The Equipment consists of Motorola APX mobile and portable radios, including accessories and programming, used by the County's public safety departments and services.

EXHIBIT B – PAYMENT SCHEDULE

Date	Outstanding Balance	Installment Payment Principal Component	Installment Payment Interest Component	Total Installment Payment
10/27/2022	\$7,998,000.00			
04/01/2023	7,998,000.00		\$121,116.38	\$121,116.38
10/01/2023	6,398,000.00	\$1,600,000	141,564.60	1,741,564.60
04/01/2024	6,398,000.00		113,244.60	113,244.60
10/01/2024	4,798,000.00	1,600,000	113,244.60	1,713,244.60
04/01/2025	4,798,000.00		84,924.60	84,924.60
10/01/2025	3,198,000.00	1,600,000	84,924.60	1,684,924.60
04/01/2026	3,198,000.00		56,604.60	56,604.60
10/01/2026	1,599,000.00	1,599,000	56,604.60	1,655,604.60
04/01/2027	1,599,000.00		28,302.30	28,302.30
10/01/2027		1,599,000	28,302.30	1,627,302.30
Total		\$7,998,000	\$828,833.18	\$8,826,833.18

EXHIBIT C – FORM OF PROJECT FUND REQUISITION

[TO BE PREPARED ON BORROWER’S LETTERHEAD FOR SUBMISSION]

PROJECT FUND REQUISITION

[Date] _____

Email requisitions to: GFProjectfunds@truist.com

Requisition Team

Truist Bank

Direct Dial: (252) 296-0452 or (252) 296-0659

RE: Request for disbursement of funds from the Project Fund related to Contract No. [_____-000_] with the County of Rowan, North Carolina, dated as of October 27, 2022.

To Whom It May Concern,

Pursuant to the terms and conditions of the Installment Financing Contract dated as of October 27, 2022 (the “Contract”) between the County of Rowan, North Carolina (“Borrower”) and Truist Bank (“Lender”), the Borrower requests the disbursement of funds from the Project Fund established under the Contract for the following Project Costs:

This is requisition number ____ from the Project Fund.

Disbursements will be to the Borrower.

Amount: \$_____

Attach copies of Certificates of Origin or Titles and vendor invoices to requisition when submitting.

Project Description: The acquisition of certain radio equipment to be used by the Borrower’s public safety departments and services.

Location of Equipment/Project:

To receive funds via wire transfer please include:

ABA Routing Number:

Account Number:

Physical address of Borrower: County of Rowan, North Carolina, 130 W. Innes Street, Salisbury, North Carolina 28144, Attention: Finance Director

The Borrower makes this requisition pursuant to the following representations:

1. The Borrower has appropriated in its current fiscal year funds sufficient to pay the Installment Payments and estimated Additional Payments due in the current Fiscal Year.
2. The purpose of this disbursement is for partial payment of the cost of the Project provided for under the Contract referenced above.
3. The requested disbursement has not been subject to any previous requisition.
4. No notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable herein to any of the persons, firms or corporations named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this requisition.
5. This requisition contains no items representing payment on account of any percentage entitled to be retained on the date of this requisition.
6. No Event of Default is continuing under the Contract, and no event or condition is existing which, with notice or lapse of time or both, would become an Event of Default.
7. The Borrower shall allow Lender to deliver and file, or cause to be filed, any Uniform Commercial Code financing statements with respect to the Project or portion of the Project that Lender may request to evidence its security interest.
8. The Borrower has in place insurance on this portion of the Project that complies with the insurance provisions of the Contract.
9. Each amount requested for payment in this requisition either (a) represents a reimbursement to the Borrower for a Project Cost expenditure previously made, and such reimbursement complies with the provisions of the Code (generally, an issuer may reimburse a prior expenditure out of tax-exempt bond proceeds if (i) the issuer has declared its "official intent" to reimburse the expenditure no later than 60 days after the date the expenditure is paid *and* (ii) the expenditure is being reimbursed no later than the end of the permitted "reimbursement period" of at least 18 months, and at most 3 years, from the date the expenditure was paid), or (b) will be used by the Borrower promptly upon the receipt of funds from Lender to make payments for Project Costs to third parties described in this requisition.

Capitalized terms used in this requisition have the meanings ascribed in the Contract.

Attached is evidence that the amounts shown in this requisition are properly payable at this time, such as bills, receipts, invoices, architects' payment certifications or other appropriate documents.

IF REQUEST IS FINAL REQUEST, CHECK HERE ☐.

**COUNTY OF ROWAN,
NORTH CAROLINA**

By: _____

Printed Name: _____

Title: _____

EXHIBIT D – FORM OF CERTIFICATE
DESIGNATING BORROWER REPRESENTATIVES

In accordance with the terms of the Installment Financing Contract dated as of October 27, 2022 (the “Contract”) between the County of Rowan, North Carolina (the “Borrower”) and Truist Bank (“Lender”), the Borrower designates the following persons as Borrower Representatives authorized to sign requisitions to withdraw funds from the Project Fund account (as such terms are defined in the Contract):

Printed Name:

Signature:

The Borrower designates the person listed below an Official Custodian for the purposes of the Federal Deposit Insurance Corporation. The person listed below is an officer, employee or agent of the Borrower who has plenary authority, including control, over funds owned by the Borrower. Control of public funds includes possession of, as well as the authority to establish, accounts in an insured depository institution and to make deposits, withdrawals and disbursements. The Official Custodian on the account is considered the insured depositor.

Printed Name:

Signature:

Last 4 Numbers of
SSN¹:

Date of
Birth:

Upon written notification to Lender, the Borrower may update (a) Borrower Representatives to sign requisitions, or (b) the Official Custodian.

County of Rowan, North Carolina

Name:

Title:

**The Official Custodian must provide a copy of his/her driver's license.*

¹ The last 4 digits of the official custodian's social security number will be used only to differentiate the official custodian from other Lender account holders with the same name.